



National Crime Prevention and Privacy Compact
COMPACT COUNCIL MEETING
OKLAHOMA CITY, OKLAHOMA
NOVEMBER 7-8, 2006

MINUTES

Ms. Donna Uzzell, Chairman, National Crime Prevention and Privacy Compact Council (Council), called the Council meeting to order at 9:00 a.m. on November 7, 2006, in the Century Ballroom of the Sheraton Oklahoma City Hotel in Oklahoma City, Oklahoma.

Mr. Todd C. Commodore, FBI's Compact Officer, conducted roll call of the Council members. The following Council members, or their proxies, were in attendance.

State Compact Officers:

- Mr. Paul Heppner, Georgia Bureau of Investigation
- Mr. Jeffrey R. Kellett, New Hampshire State Police
- Mrs. Julie LeTourneau Lackner, Minnesota Department of Public Safety
- Captain Timothy P. McGrail, Missouri State Highway Patrol
- Lt. John H. O'Brien, New Jersey Division of State Police
- Ms. Dawn Peck, Idaho State Police
- Mr. David Sim, Kansas Bureau of Investigation
- Ms. Donna Uzzell, Florida Department of Law Enforcement
- Ms. Liane Moriyama, Hawaii Criminal Justice Data Center

State/Local Noncriminal Justice Agency Representative:

- Mr. Robert Finlayson III, Georgia Department of Human Resources

State/Local Criminal Justice Agency Representative:

- Ms. Carole Shelton, Maryland Department of Public Safety and Correctional Services

Federal Noncriminal Justice Agency Representative:

- Mr. William Marosy, Office of Personnel Management
(Proxy for Ms. Kathy Dillaman)

Federal Criminal Justice Agency Representative:

- Mr. Jonathan Frenkel, Department of Homeland Security - **(Not in Attendance)**

Advisory Policy Board Representative:

- Mr. William Casey, Boston Police Department - **(Not in Attendance)**

Federal Bureau of Investigation:

- Mr. Thomas E. Bush III, FBI CJIS Division

Mr. Commodore recognized new State Compact Officers and state repository representatives. Other meeting attendees introduced themselves and the agency they represented. (**Attachment 1**)

Chairman Uzzell advised that she and Vice Chairman Sim continue to work towards expanding state ratification of the Compact. The Policy and Planning Committee is exploring new ways to provide support to states considering ratification of the Compact. Chairman Uzzell also announced that the FBI is planning to conduct an orientation overview for nonparty states at the next Council meeting, hoping this venue will provide states with an opportunity to learn about the Council process.

As directed by the Council at the last meeting in November, Chairman Uzzell reported that letters were distributed to Compact signatories and Memorandum of Understanding (MOU) states requesting that they work towards making their records available for Purpose Code I requests. Chairman Uzzell advised, as a result, that 33 states have begun making their records available for noncriminal justice requests from the Interstate Identification Index (III).

Council members were provided with National Fingerprint File (NFF) statistics. Chairman Uzzell congratulated Idaho for becoming the 9th NFF state. Furthering the implementation of NFF, Chairman Uzzell announced that, as a result from discussions at both the Standards and Policy and Planning Committees' spring 2006 meetings, discussions on developing a time line for Compact states to join III and NFF programs resulted. The Committees' focused on ways to assist the non-NFF Signatory states in their progression toward participation. The CJIS Division staff was asked to draft a checklist for use by states preparing for NFF. The Council approved this request and recommended a report at each Standards Committee meeting to update the Committee on states progress toward NFF participation. At the August 2006 Standards Committee meeting, the Committee approved the matrix and requested that the CJIS Division staff proceed with getting the NFF Matrix out to the states. The NFF Matrix, with an explanatory cover letter, was sent to the State Compact Officers of the 18 states who are not NFF participants, during late October 2006.

Next, welcoming remarks were provided by recently retired Compact Council member Rusty Featherstone. Then, Mr. Thomas E. Bush, III, FBI, CJIS Division, presented awards to Ms. June Still, Tennessee Bureau of Investigation, who will be retiring in early 2007 and to Mr. Rusty Featherstone, Oklahoma State Bureau of Investigation, former member of the Council.

Next, the Council approved the minutes from the May 16-17, 2006, meeting.

Compact Council Action: Ms. Dawn Peck moved to approve the May 2006 minutes. Seconded by Mr. Jeffrey Kellett. The motion carried.

Topic #1 FBI's Criminal Justice Information Services Division Update

Mr. Bush provided an update on the CJIS Division. (**Attachment 2**) Mr. Bush provided updates on the Integrated Automated Fingerprint Identification System (IAFIS), National Crime Information Center, National Instant Criminal Background Check System, Law Enforcement Online (LEO), Uniform Crime Reporting, Next Generation Identification, Law Enforcement National Data Exchange (N-DEx) and spoke on interoperability efforts with Department of Homeland Security, Department of State, and Department of Defense.

Compact Council Action: This topic was accepted as information only.

Topic #2 Consideration of Bylaws Amendments

Mrs. Joyce Wilkerson, FBI staff, presented two amendments to the Council's Bylaws. At its August 2006 meeting, the Policy and Planning Committee discussed the Bylaws requirement for the Council Chairman to conduct an election during the month of July for new appointments to serve the Council, as stated in Section 5.1. The Committee recommended that the Bylaws be amended to state, "The Chairman shall conduct an election **prior to** the month of July...". Additionally, the Committee recommended that Section 7.1 be amended to state the Council Chairman shall appoint **a vice-chairman** for each committee. The proposed Bylaw amendments were e-mailed to all Council members on October 2, 2006.

Compact Council Action: Ms. Dawn Peck moved to change the wording in the Compact Council Bylaws Section 5.1 from "during the month of July" to "prior to the month of July". Seconded by Mr. Paul Heppner. The motion carried.

The Compact Council's Bylaws provide that provide that the Vice Chairman of the Compact Council shall serve as the Chairman of the Compact Council in the absence of the Chairman. Currently, if a committee chairman is unexpectedly absent or delayed from a scheduled meeting there is no inherent succession as to whom would serve in the absence of the committee chairman. Therefore, the Policy and Planning Committee was also requested to consider whether the Compact Council Chairman should appoint a vice-chairman for each committee. The Policy and Planning Committee recommend that the Bylaws be amended to require the Compact Council chairman to appoint a vice-chairman for each committee. The vice-chairman will assist the chairman in the management of the committee and will serve as the chairman of the committee in the absence of the chairman.

Compact Council Action: Ms. Liane Moriyama moved to change Section 7.1 (D) of the Compact Council Bylaws as follows: Establish Committees of the Compact Council, appoint a Chairman **and Vice Chairman* of each Committee, and prescribe committee membership, responsibilities, and duration; Seconded by Ms. Carole Shelton. The motion carried. **Changes are in italic.*

Topic #3 The Policy & Planning Committee's Report on the Survey Regarding State Ratification of the National Crime Prevention and Privacy Compact (Compact)

Mrs. Wilkerson presented the Policy & Planning Committee's report on the survey regarding state ratification of the Compact. During the March 30, 2006, Policy & Planning Committee meeting, the committee discussed various strategies for expanding state ratification of the Compact and made recommendations to the Council. Mrs. Wilkerson reported, that as a result of the discussions of the Council, the Council adopted recommendations to expand state ratification of the Compact and some of those included providing information on the ratification of the Compact at SEARCH meetings, on-site visits to key decision makers with guidance on ratification of the Compact, invite members of nonparty states to attend the Council meetings, and to conduct a survey of nonparty states to identify the impediments to ratifying the Compact. As a result of the last strategy, the FBI Compact staff prepared two surveys and these were presented to the Policy & Planning Committee at its August meeting. Survey #1 was prepared for dissemination to the nonparty and MOU signatory states. Survey #2 was prepared for dissemination to the Compact party states. Mrs. Wilkerson presented the two surveys to the Council and addressed questions and concerns. The Council had no changes to Survey #1 and some suggested changes to Survey #2, which FBI staff will incorporate into the survey.

Compact Council Action: This topic was accepted as information only.

Topic #4 Bureau of Justice Statistics Grant Opportunities

Mr. Gerald Ramker, Chief of Criminal Statistics Improvement Programs, Bureau of Justice Statistics (BJS), provided the Council with information on BJS grant opportunities. Mr. Ramker presented attendees with information on funding programs and resources that are available to improve criminal history records through the BJS. The BJS provides direct funding to the states to improve the quality, timeliness, and immediate accessibility of criminal history records and technical assistance to the states through ongoing program incorporating surveys, evaluations, national forums for considering privacy issues and strategies, and direct guidance to states. These resources may be valuable to Compact states moving towards NFF participation. Mr. Ramker is responsible for the National Criminal History Improvement Program (NCHIP). He reported that NCHIP is the federal grant program designed to ensure that the nation's safety and security is protected by making sure criminal history record information is accessible, accurate and complete as possible. Discussion from Council members centered around ways to exhibit to Congress what good work has happened in the states as a result of NCHIP funding and what the states or what the Council could do to communicate to Congress to support funding. It was the consensus of the Council for Chairman Uzzell to draft something factually regarding NCHIP, and then send it to Mr. Frank Campbell, Department of Justice (DOJ) for review.

Compact Council Action: This topic was accepted as information only.

**Topic #5 The Standards Committee Report on a Request to Modify Policy
Where Applicants are Physically Incapable of Providing Fingerprints**

Mrs. Diane Shaffer, FBI staff, provided the Standards Committee Report on the request to modify policy where applicants are physically incapable of providing fingerprints. Mrs. Shaffer reported that the Standards Committee moved that the FBI refine its existing policy on submitting fingerprints where applicants are physically incapable of being fingerprinted and look at current policy on requiring a second submission for these types of submissions. The Identification Services Subcommittee made a motion to remove the second fingerprint requirement for applicants who are physically incapable of being fingerprinted due to a permanent disability such as a double amputee. It was the consensus of Council member discussions that it would be foolish to require a double amputee to submit fingerprints. Everyone understood that there was a need to do something.

Compact Council Action: Mr. Paul Heppner moved that fingerprint requirements for applicants who are permanently physically unable to provide fingerprints, such as double amputees, be removed. Seconded by Mr. Robert Finlayson. The motion carried.

**Topic #6 The Standards Committee Report on Standardized Reasons
Fingerprinted (RFP) for Non-Federal Civil Applicant Fingerprint
Submissions**

Mrs. Debbie Chapman, FBI staff, presented the Standards Committee Report on Standardized Reasons Fingerprinted (RFP) for non-federal civil applicant fingerprint submissions. **(Attachment 3)** In June, 2004, the APB approved the CJIS Division's implementation plan for use of the RFP for non-federal civil applicant fingerprint submissions. In spring 2005, the APB approved a revised list and endorsed the Standardized RFP concept. Additionally, the APB approved the use of the Standardized RFP for one pilot state and requested the FBI to investigate the possibility of assigning a specific code to each category of statute.

Mrs. Chapman reported that on December 16, 2005, the Georgia Bureau of Investigation (GBI) entered into a User Agreement with the CJIS Division to submit their civil/applicant fingerprint submissions to the FBI CJIS Division using the Standardized RFP in the RFP field. The GBI submitted 16,251 civil/applicant fingerprint submissions with Standardized RFP from September 2005 through March 2006. The Standards Committee made a motion to expand the use of the standardized reason fingerprinted, as piloted by GBI, by adding additional states.

Next, Mrs. Chapman addressed an APB action item for the possibility of assigning a specific code to each category of statute for the purpose of congressional reporting. The CJIS Division has concluded that there are no congressional reporting requirements for civil/applicant submissions.

Compact Council Action: Ms. Dawn Peck moved Option 1: Endorse expansion of the Standardized RFP as piloted by GBI by adding additional states. Seconded by Mr. John O'Brien. The motion carried.

Topic #7 **Update on the National Fingerprint File (NFF) Program Participation**

Mrs. Paula Barron, FBI staff, provided the NFF program participation update. (Attachment 4) Mrs. Barron reported that there are nine current NFF participants and that there are 12 states who have posted for an on-site visit. Additionally, Mrs. Barron provided the Council with a review of the CJIS Division's procedures established to move towards NFF participation.

Compact Council Action: This topic was accepted as information only.

Topic #8 **The Standards Committee Report on the Review of Required Data Fields for the Integrated Automated Fingerprint Identification (IAFIS) Civil Submissions**

Mrs. Chapman presented the Standards Committee Report on the review of required data fields for IAFIS civil submissions. (Attachment 5)

This topic was submitted by Mr. Hugh Jordan, US Citizenship and Immigration Services (CIS). The CIS and the Department of State have reported the collection of data for the race, height, weight, eye color, and hair color fields to be very time consuming as they are moving towards faster fingerprint capture technology and have requested review of these fields to determine if it is feasible for these to be optional. Currently, these fields are mandatory fields per the Electronic Fingerprint Transmission Specification (EFTS) for IAFIS electronic civil submissions.

Mrs. Chapman reported that the Standards Committee moved to endorse Option 1 - make no changes to the current processing. Electronic civil submissions would be submitted with default codes only when the required data field information is not available.

Compact Council Action: Mr. Paul Heppner moved to endorse the Standards Committee motion to approve Option 1: - make no changes to the current processing. Electronic civil submissions would be submitted with default codes only when the required data field information is not available. Seconded by Mrs. Carole Shelton. The motion carried.

Topic #9 New NCPA/VCA Implementation Guidelines

Mr. Allen Nash, FBI staff, presented to the Council the new National Child Protection Act (NCPA)/Volunteers for Children Act (VCA) implementation guidelines. As a result of the discussions on the FBI Freedom of Information Act (FOIA) program at the previous Council meeting, the FBI was requested to provide guidance on whether states could disseminate FBI maintained criminal history record information based on the consent of the subject of the record. The FBI's Office of the General Counsel (OGC) indicated that it has no legal obligation to the dissemination of CHRI to a third if authorized by the subject's written consent to support the implementation of the NCPA/VCA. Mr. Nash reported that the Florida program was established in 1999. It combines the framework of NCPA/VCA, plus it requires individuals to sign the consent form allowing FDLE to disseminate criminal history down to the qualified entity. There is a user agreement in place which delineates security requirements including the fact that they would be subject to audits. As a result, any state who wants to disseminate down to a qualified entity must meet the following two provisions: 1.) Each state must establish procedures for the qualified entity to contact an authorized agency of the state to request a check and that qualified entity has to sign a user agreement and the user agreement has to delineate these security requirements and also has to delineate requirements for challenging the accuracy and completeness of the record as entitled by the NCPA/VCA., and 2.) Any individual who is subject to these checks must sign a waiver and consent form. The waiver and consent form must say that the qualified entity is going to perform a national criminal background check and authorizes the state agency to send the results of that check to the qualified entity.

Mr. Nash provided Council members with a copy of an information letter which provided states with guidance on the appropriate use of the consent form. **(Attachment 6)**

Next, Chairman Uzzell mentioned that this issue was discussed at the Sanctions Committee meeting because they have the responsibility of looking at training issues on noncriminal justice audits. Chairman Uzzell has also been in contact with Universal Studios to provide a facility to hold a training seminar and possibly a tour of their security area. Chairman Uzzell offered the option to coordinate this noncriminal justice audit training with the Sanctions Committee. Mrs. LeTourneau-Lackner commented on the Sanctions Committee discussions and recommended that the Council move forward with the training and presentations by the FBI and the states. Chairman Uzzell concluded by stating that the training is tentatively scheduled in Florida at the end of January 2007.

Compact Council Action: This topic was accepted as information only.

Topic #10 Interstate Identification Index (III) Purpose Code in FBI Record Requests for Noncriminal Justice Departmental Order (DO) 556-73 Fingerprint Submissions

Mrs. Barron presented the Interstate Identification (III) Purpose Code in FBI record requests for noncriminal justice Departmental Order (DO) 556-73 fingerprint submissions. Mrs. Barron reported that the FBI's Office of the General Counsel, Access Integrity Unit, recently advised the CJIS Division's Identification and Investigative Services Section, that a unique purpose code should be established to clearly indicate the purpose for the record request. The new purpose code's use will be limited to a unique FBI ORI and will be solely for the DO processing. The CJIS Division will establish the new purpose code "R" to be used in III record requests in support of the DO. This purpose code will be used by the CJIS Division only. The NFF states will be the first affected since the FBI reaches out to the NFF states for their records when a fingerprint submission identifies to an NFF record. Additionally, all III participating states will be affected when the FBI's IAFIS is modified to reach out to III states on fingerprint processing for their records when the state can support the purpose of the request. Mrs. Barron reported that both the Council and the CJIS APB approved such a modification during their spring 2006 meetings. Upon implementation of this system change, the III participating states will need to determine if their state laws or policy would permit support of the DO record requests. Those III states authorized to support the DO record requests will need to coordinate software changes with the CJIS Division. Currently, the FBI uses Purpose Code C for these record requests. After much discussion, the following action was taken:

Compact Council Action: Mr. Paul Heppner moved to refer this topic to the Executive Committee for further review. Seconded by Mrs. Dawn Peck. The motion carried.

Topic #11 FEMA Notice - Privacy Act System of Records; Amendment to Existing Routine Uses

Mr. David Sim, Vice-Chair of the Council, presented this topic. He attended a SEARCH Focus Group meeting that discussed criminal record background checks during the aftermath of Hurricane Katrina. He reported, as part of the meeting materials, SEARCH provided a published copy of a rule in the Federal Register by FEMA that discussed the Privacy Act System of Records (**Attachment 7**). During the meeting, it was mentioned that no agency or state commented on the rule and it became effective on August 7, 2006. One of the issues regarding this rule was it potentially could involve secondary dissemination of criminal history record information. Mr. Sim brought this before the Council to look at the implications of this rule, as to whether or not there are any implications for secondary dissemination of criminal history and if so, what the appropriate action would be.

Compact Council Action: Mrs. Carole Shelton moved to refer this topic to FBI staff to make a determination as to whether or not there would be implications that would require some sort of action or response on part of the Council. Seconded by Mr. Paul Heppner. The motion carried.

Topic #12 Advisory Policy Board Update

Mr. Heppner provided an update of the current Advisory Policy Board (APB) initiatives and provided approved motions from the last APB meeting (**Attachment 8**)

Compact Council Action: **This topic was accepted as information only.**

Topic #13 Next Generation Identification Program Update

Mr. Gary Barron, FBI staff, presented the Next Generation Identification (NGI) Program update. (**Attachment 9**) Mr. Barron reported that in addition to the initiatives through the user requirements canvass there were two new areas of interest that were identified and that was a multimodal framework to accommodate new types of modes of biometrics such as palms, irises, facial recognition and in addition to that, expand latent functionality. Next, Mr. Barron commented on the user requirements canvass. These requirements were provided to the APB Working Groups, the Compact Council and the Council's Committees for their input before sending them on to the IAFIS Interface Evaluation Task Force. The Identification Services Subcommittee approved the requirements and then they were sent to the APB for final approval in June.

In regards to development, the RFI went out on October 26 and they are expecting the RFP sometime in March. Mr. Barron reported that some of the next steps that they are looking at include CD capability for machine readable data, a new disposition III message, a quality check automation phase III, receipt and storage of ANSI/NIST records, and disposition electronic fingerprint transmission specification.

In closing, Mr. Barron commented that NGI continues to grow and that there are many new things on the horizon. He discussed the multiple teams within NGI and their responsibilities.

Compact Council Action: **This topic was accepted as information only.**

Topic #14 The Policy & Planning Committee Report

First, Mr. Sim provided a re-cap of the Hurricane Katrina working group. This group met back in Las Vegas to determine what was good, bad, and indifferent about the way in which the United States responded to the Katrina catastrophe. SEARCH is going to be producing a final report and should be good reading from the point of view of the Council. Mr. Sim reported numerous discussions centered around record checks in the fact that they have little or no value or they are misplaced in events such as this. They did come to the conclusion that record checks are important and that they need to be included in the planning of future events. There was also discussion on Purpose Code X exigent circumstance searches, FEMA and the Red Cross.

Next, Mr. Sim provided the Policy and Planning Committee report. The Committee met August 9, 2006, in Charleston, SC, and recommended a Bylaws change, which was discussed by the Council the day before, and they talked about the survey of the states regarding ratification of the Compact. Members discussed the strategic plan and made some edits and modifications. The Committee also talked about the Identification Guide and the fact that it has been published and distributed. The final item that was covered during the meeting was the summary of the Attorney General's Report to Congress on Criminal History Background Checks (**Attachment 10**).

Compact Council Action: **This topic was accepted as information only.**

Topic #15 **Sanctions Committee Report**

Mrs. Julie LeTourneau Lackner, Chair of the Sanctions Committee, reported that the Sanctions Committee recommended to accept the corrective actions taken by the states of Arizona and Georgia to comply with Compact rules and III requirements. The second two topics discussed included a review of six recently conducted IAFIS and NFF audits from the April 2005 through August 2006. NCIC and III recommendations were made for all states that had misuse of the system. Colorado and Montana NFF audits were also reviewed. For IAFIS audits, four states were reviewed including Alaska, Minnesota, Wyoming, and Hawaii. The fourth topic reviewed was the summary of recently conducted audit of outsourcing of noncriminal justice administrative functions specifically TSA and the committee recommended an appropriate letter be sent to TSA. In conclusion, the Committee discussed the upcoming training conference.

Compact Council Action: **Mr. John O'Brien moved to approve the Sanctions Committee Report. Seconded by Mr. David Sim. The motion carried.**

Topic #16 **Legislative Update**

Mr. Danny Moyer, Office of the General Counsel, provided the legislative update and addressed significant changes that have occurred since the last meeting. House Resolution 5893 is the Private Security Officer Employment Enhancement Act of 2006. It amends the Intelligence Reform and Terrorism Prevention Act of 2004. DHS would be a channeler of fingerprints to the FBI. DHS would be approached by authorized employers having security guards. They would be forwarding those fingerprint submissions directly to the FBI.

Mr. Moyer also reported on House Resolution 6161. Its purpose is to amend the Social Security Act, at least for the portion that deals with those individuals having direct patient access in nursing homes and the lead agency that would be preparing the regulations under this particular bill is hotel and human services. It mandates both national and state checks and the national check would be available to the nursing home.

Next, Mr. Jim Gray, reported on Topic #16A, the Adam Walsh Child Protection and Safety Act of 2006.

Compact Council Action: **This topic was accepted as information only.**

Topic #16A Adam Walsh Child Protection and Safety Act of 2006

Mr. Jim Gray, FBI staff, reported that the Adam Walsh Child Protection Safety Act of 2006 was enacted on July 27, 2006, as Public Law 109-248. Mr. Gray reported that the CJIS Division, in coordination with the Department of Justice Office of Legal Policy, recently finalized a letter that will be mailed to all CJIS Systems Officers and State Identification Bureaus. The letter will provide guidance to states implementing the access made available under Section 151 and 153 of the Act. Section 151 of the Act authorizes full access to NCIC and III by National Center for Missing and Exploited Children and by governmental social service agencies. Section 153 of the Act is entitled the School Safely Acquiring Faculty Excellence Act of 2006 or SAFE Act. Section 153 requires the Attorney General, upon request of a state's Chief Executive Officer, to conduct fingerprint based checks for child welfare agencies conducting background checks of prospective foster or adoptive parents or investigating incidents of abuse or neglect of a minor and for private or public elementary schools and/or local or state educational agencies conducting background checks on employees, prospective employees or individuals otherwise in a position in which the individual would work with or around children in the school or agency.

Compact Council Action: **This topic was accepted as information only.**

Topic #17 Status of FBI's Selection of Pre-Approved National Channelers

Mrs. Kim Smith, FBI staff, provided the status of FBI's selection of pre-approved national channelers. On June 21, 2006, the notification was published in the Fed Biz Ops. On June 28, 2006, the RFPs were provided to the interested contractors. On October 24, 2006, the source selection evaluation board presented recommendations to the source selection authority. As of May 18, 2006, there have been 19 offerers for awards. (**Attachment 11**) They were notified via e-mail and fax with a hard copy follow-up. The next steps, there will be a kick-off teleconference scheduled for November 15, 2006. It will be an opportunity for the contractors to call in and get their questions answered as far as what they need to do on their end, what their lead time is, etc. Lead time to establish a CJIS Wide Area Network is three to six months, so channelers should be forwarding fingerprints to us early in 2007.

Compact Council Action: **This topic was accepted as information only.**

Topic #18 Status of Task Force to Explore Expanding Use of the Interstate Identification Index (III) System to Protect Local, State, and Federal Critical Infrastructures

FBI Compact Officer Todd Commodore presented this topic. He stated that Paul Heppner, during his APB update, advised that APB Chairman Frank Sleeter was reconvening the task force comprised of both APB and Compact Council leadership to explore expanding the use of III to protect local, state, and federal critical infrastructures. Any Council member interested in serving on this task force was instructed to notify Mr. Commodore within the next couple of weeks.

Compact Council Action: This topic was accepted as information only.

Topic #19 Access to Department of Homeland Security (DHS) Information by Federal, State, and Local Criminal Justice, Intelligence, and Noncriminal Justice Agencies

Topic #20 IDENT/IAFIS Interoperability--Strategies for Data Protection

Mrs. Chapman and Ms. Kim Nivera, U.S. VISIT, Department of Homeland Security, presented Topic #19 and Topic #20, consecutively. The first part of their presentation was an update on the progress with interoperability (**Attachment 12**) and the second part (**Attachment 13**) dealt with strategies for data protection. Ms. Chapman reported that the Design Phase of iDSM began in February 2006 and is now complete. Deployment occurred on September 3, 2006, with Boston as the first city and Dallas was added November 1, 2006. For iDSM, it is working well and Mrs. Chapman told of some success stories.

Next, Ms. Nivera reported that in analysis of the shared data versus the shared services model, there was a lot of concerns that were presented in the event that we did not go through a full data sharing model. They have developed a list of data protection strategies that were provided to the Council to identify how they will be making strides towards protecting the data and alleviating the fears in regards to the data as it is shared with the different entities.

Compact Council Action: Ms. Carole Shelton moved to look at the data protection strategies which support the shared services model. Seconded by Ms. Liane Moriyama. The motion carried.

Additional Items:

Next, Mr. Commodore announced upcoming meeting dates. The Standards Committee and Policy and Planning Committee will meet March 28-29, 2007, in Pittsburgh, Pennsylvania and the next Compact Council meeting will be May 23-24, 2007, in Louisville, Kentucky. It will be at the May Council meeting where there will be an orientation meeting for the nonsignatory states.

As another item of business, Mr. Mike Lesko, commented on TSA's visit to Texas in regards to how they do their HAZMAT processing. He stated that the state of Texas was planning to write a letter to TSA and asked if the Chairman of the Council would consider doing the same. Chairman Uzzell responded that she had no problem with writing a letter, since this was the pleasure of the Council.

The meeting adjourned at 12:45 p.m.

Compact Council Minutes, Attachment #1

*Compact Council Meeting - Attendee List
Oklahoma City, OK - November 7-8, 2006*

<i>Name</i>	<i>Agency</i>
Thomas J. Baker	Baker Associates
Paula A. Barron	FBI
Gary S. Barron	FBI
David Bolme	Integrated Biometric Technology
Joseph Bonino	JPB Consulting Group
Chris Booher	Choicepoint
Wendy L. Brinkley	North Carolina State Bureau of Investigation
Thomas Bush	FBI
Frank Campbell	U.S. Department of Justice
Brad A. Cazort	Arkansas Crime Information Center
Debbie M. Chapman	FBI
Todd C. Commodore	FBI
M. G. Corsaro	West Virginia State Police
Elaine Cropper	Canyon State Reporting
David Cuthbertson	FBI
Stacye Dorrington	Montana Department of Justice
Rebecca Durrett	FBI
Robert M. Finlayson, III	Georgia Department of Human Resources
Jonathan Frenkel	Department of Homeland Security
Vincent Furno	Lockheed Martin Corporation
Debra Goodloe	Oklahoma State Bureau of Investigation

James P. Gray	FBI
Owen Greenspan	SEARCH
David W. Hagan	Lockheed Martin TSS
Harold B. Halden	Sagem Morpho, Inc.
Paul C. Heppner	Georgia Bureau of Investigation
James Jarboe	Lockheed Martin
Jeffrey R. Kellett	New Hampshire State Police
Lori Kemp	FBI
Jim Kessler	Wachovia Corporation
Michael Kirkpatrick	
Susan Kitchen	Colorado Bureau of Investigation
Robert Knuth	General Dynamics Advanced Information Systems
Catherine Krause	Nevada Department of Public Safety
Eric M. Lapp	National Background Check, Inc.
Adrienne L. Leach	FBI
Michael Lesko	Texas Department of Public Safety
Julie LeTourneau Lackner	Minnesota Department of Public Safety
David Loesch	DRL Consulting
Robyn Lyles	Maryland Department of Public Safety and Correctional Services
Angell Magnani	Iowa Department of Public Safety
William Marosy	USOPM-Federal Investigative Service
Andrea C. McCarthy	Northrop Grumman
Timothy P. McGrail	Missouri State Highway Patrol
Debbie McKinney	Oklahoma State Bureau of Investigation
Tina Medich	California Department of Justice
Kathryn M. Monfreda	Alaska Department of Public Safety

Liane M. Moriyama	Hawaii Criminal Justice Data Center
Danny R. Moye	FBI
Allen Wayne Nash	FBI
Stuart Nathan	Maryland Department of Public Safety and Correctional Services
Kimberly Nivera	Department of Homeland Security - US Visit
Christopher S. Nolan	Lockheed Martin
John H. O'Brien	New Jersey Division of State Police
Steven P. Otsuki	SPO Consulting
Fannie Parker	FBI
Dawn Peck	Idaho State Police
Gary L. Penley	Sagem Morpho, Inc.
Michelle Pfeifer	Accenture
Gerard Ramker	U.S. Department of Justice
Marcel D. Reid	Illinois State Police
Jeffrey A. Rossi	Ohio Bureau of Criminal Identification and Investigation
Anthony J. Schirillo, III	Connecticut Department of Public Safety
Sylvia Seward	Oklahoma State Bureau of Investigation
Diane Shaffer	FBI
Carole Shelton	Maryland Department of Public Safety and Correctional Services
David G. Sim	Kansas Bureau of Investigation
Kimberly K. Smith	FBI
June Still	Tennessee Bureau of Investigation
Justina Tate	FBI
Richard J. Thomas	Appriss, Inc
Bruce Thomas	CAPGEMINI
Michael Timmerman	Arizona Department of Public Safety

Thomas W. Turner	Virginia State Police
Donna M. Uzzell	Florida Department of Law Enforcement
Lisa Vincent Stout	FBI
Patricia Whitfield	Oregon State Police
Joyce Wilkerson	FBI
Jonathan D. Williams	FBI
Robert Williams	Maine State Police
James M. Wilson	Wyoming Division of Criminal Investigation
Martha Wright	Florida Department of Law Enforcement

**Compact Council Meeting
November 2006**



**Assistant Director, CJIS
Thomas E. Bush, III**

Overview

- ☐ CJIS Services
- ☐ New Initiatives
 - NGI
 - Interoperability Efforts – DHS/DOS/DOD
 - N-DEx

CJIS Services

IAFIS

- ☐ 23.1 million Fingerprint submissions received in FY06
- ☐ Up from 20.7 million in FY05 - 11.8% increase
- ☐ 46% Criminal submissions
- ☐ 54% Civil submissions
- ☐ 23.2 million Fingerprint submissions processed in FY06
 - Approximately 2 million per month

IAFIS

- ☐ **One Day Records**
 - April 5, 2006 – 105,875 submissions processed
 - June 20, 2006 – 107,615 submissions received
 - Currently 88% received electronically
- ☐ **Criminal submissions completed within 2 hrs**
 - FY06 – 96.8% FY05 – 96.7%
- ☐ **Average response time for electronic criminal submissions**
 - FY06 – 21 minutes FY05 – 28 minutes

Latent Functionality

- ☐ Develop a national marketing plan for latent services
- ☐ Enhance JABS with Latent Search Software
- ☐ Statistics

	2005	2006
Latent Submissions	84,796	108,516
Rec'd from:		
Remote locations	87.6%	92.8%
FBI Lab	12.4%	7.2%
Avg response time	3 hrs 45 min	1 hr 44 min
		(from remote locations)
		1 hr 23 min
		(from FBI Lab)

NCIC

Statistics

- ☐ Total transactions
 - FY06 - 1,801,802,679 (average of 4,837,802 per day)
 - FY05 - 1,639,554,366
- ☐ Increase from FY05 to FY06
 - 9.9%
- ☐ NCIC Peak Daily Record
 - September 13, 2006 – 6,361,119

NICS

- ☐ Background Checks processed FY06
 - 68,828,586
- ☐ 9.88 % increase from FY05
- ☐ Mental Defective Records
 - 56,059 added since January 1, 2006

NICS

NICS Process Study Task Force

- ☐ Will review and evaluate system enhancements and propose process improvements to increase operational and system efficiency
- ☐ Subject matter experts identified
- ☐ Technical Interchange Meetings
 - Scheduled for October and November 2006
- ☐ Weekly Integrated Project Team meetings
 - Task Force members, Contractors, other stakeholders
 - Discussions
 - ☐ General project information, action items, risks, status of the NICS Process Study

LEO

- ❑ SMARTPASS is gone
- ❑ You asked for it, LEO delivered. LEO is truly, anytime, anywhere. Law Enforcement Online (LEO) has implemented a new authentication method for LEO. The SSL System provides end to end encrypted tunnel. SSL System enables, controls and secures the extended enterprise with the world's first Identity - Driven Access Gateways.
- ❑ Log on to <http://cgate.leo.gov>

Currently on LEO

- ❑ 50,000+ users with secure communications
 - Various uses: Email, "tearline" Intelligence Products, Training
- ❑ FBI National Alert System (NAS)
 - Ability to reach 20,000 members in five minutes
 - Average time 5 seconds
- ❑ Presently, 250+ Special Interest Groups
 - Hosted and Portal Services
 - ❑ FBI Bomb Data Center Database
 - ❑ NCMEC
 - ❑ Department of Justice Joint Automated Booking System (JABS)
- ❑ Special Events 24/7 Operational Support
 - Virtual Command Post (VCC)
 - ❑ Olympics, DNC/RNC, Inauguration, Superbowl, others

UCR

- *Crime In the United States, 2005*, released on 09/18/2006 as a Web-only publication.
- *Hate Crime Statistics, 2005*, released 10/16/2006 as a Web-only publication.
- *Law Enforcement Officers Killed and Assaulted, 2005*, released on 10/30/2006 as a Web-only publication.
- The FBI is striving to reduce its reliance on hard copy publications in order to make productive use of resources and to improve accessibility to UCR data for all of its consumers.
 - ❑ Advantages
 - Restructured for the Web, the presentation reaches more users at a fraction the cost than the hard copy book.
 - The Internet offers expanded publication features such as clearly designed navigation, well -thought out structure, and streamlined design and writing. On the Web, CIUS as a statistical reference is more intuitive and user friendly than previously possible.
 - Publishing to the Web enables the FBI to release the UCR data in a more timely manner. (This year the three publications are being released a month earlier than in previous years.)

New Initiatives

Next Generation Identification



NGI

- ❑ Significant projected dates of interest
 - Published Request for Information (RFI)
 - ❑ October 2006
 - Publish Request for Comment (RFC)
 - ❑ January 2007
 - Publish Request for Proposal (RFP)
 - ❑ February 2007
 - Award NGI Development Contract
 - ❑ July 2007

Interoperability DHS/DOS/DOD

Interoperability DHS

- ☐ Interoperability between DHS' IDENT system and FBI's IAFIS
- ☐ Interim Data Sharing Model (IDSM)
 - Biometrically-based access to immigration-related information
 - Deployed 9/3/2006 on time and under budget
 - ☐ Boston Police Department first pilot agency
 - 3,014 transactions submitted, 2 positive identifications to date.
 - ☐ Dallas County Sheriff's Office will be on-line in November
 - ☐ Office of Personnel Management (OPM) will be on-line in December
 - Additional datasets to be added
 - ☐ DHS – Recidivist with Alerts
 - ☐ FBI – Known and Suspected Terrorists
 - Contributions of biometric data to the IDSM
 - ☐ FBI - 673,000 fingerprint images of all wanted subjects from IAFIS
 - ☐ DHS - 399,000 fingerprint images of expedited removals
 - ☐ DOS- 24,800 fingerprint images of Category One Critical Visa Refusals

Interoperability DoS

- ☐ State -FBI Ten-print Pilot
 - 100% of Visa applicants at limited, high-priority consulate sites
 - Selected pilot posts will collect ten prints in standard FBI format for ten-print submissions to IAFIS
 - Ten-print submissions will be transmitted by telecommunication lines currently used for DoS submissions
 - Initial sites selected: San Salvador, London, Riyadh
 - Potential for 9 total sites – additional sites added with CJIS concurrence
 - FBI anticipates 1,800 transactions per day
 - Efforts are underway to waive the current processing fee for participating pilot sites until June of 2007
 - ☐ Appropriated funds can not be used

Interoperability DoD

- ☐ DoD has electronically submitted 93K fingerprint background check inquiries to IAFIS resulting in 159 identifications.
- ☐ In addition to these inquiries, DoD has also shared more than 565K identification records.
- ☐ Of these records, IAFIS has processed and retained more than 136K resulting in 1,374 identifications.
- ☐ Automated sharing of KST records with DHS is accomplished via submission to IAFIS.

N-DEx

N-DEx

- ☐ Acquisition process is on schedule
- ☐ Request for proposal released - June 6, 2006
- ☐ Due Diligence was completed - August 2006
- ☐ Source Selection is in process - October through December 2006
- ☐ Anticipated contract award - January 2007
- ☐ Continue to support and participate in the development of the National Information Exchange Model (NIEM)
- ☐ APB and major law enforcement associations endorsement of the N-DEx program has resulted in a ground swell of agencies wanting to participate in N-DEx

On the Horizon

- ❑ TWIC – Transportation Workers Identification Credentials 850K FP
- ❑ Guest Worker – Immigration Reform 19M FP

Questions?



Standardized Reasons Fingerprinted

National Crime Prevention and Privacy
Compact Council
November 2006

6/30/2007

1

Overview of Presentation

- **Update on Standardized RFP**
 - Submissions will be more automated
 - Quicker IAFIS response times
 - Less programming changes for the states when new statute categories are added
- **Proposal for the assignment of codes to statute categories**

2

Background Information

- Reason Fingerprinted field is reviewed to ensure that an IAFIS criminal history background check is authorized for non-federal civil submissions
- June 2004 APB approval for CJIS implementation plan for Standardized Reason Fingerprinted
- Investigate assigning codes to categories of statutes
 - Georgia is piloting Standardized Reason Fingerprinted for IAFIS searches

3

Standardized Reasons

- **Firearms**
- **Volunteer**
- **Criminal Justice Employment**
- **Child Care/School Employee**
- **Other Employment and Licensing**

4

Requirements for Use

- **Maintain a tracking system**
- **Submit electronically**
- **Submit only authorized non-federal civil submissions as authorized by federal or state legislation and approved by the Office of General Council**
Access Integrity Unit
- **Must use approved Standardized RFP**

5

Georgia Bureau of Investigations

- **Began 9/26/2005**
- **16,251 submissions as of March 2006**
- **Automated group**
 - 151.1 minutes average processing time
- **Control group**
 - 211.7 minutes average processing time
- **Average time saved was 60 minutes**

6

Action Item

- Investigate assigning codes to categories of statutes
- CJIS recommends no assignment of codes for each category of statute
 - No Congressional reporting need
 - Reporting needs can be met using the Standardized RFP

7

Request of the Council

- Option 1: Endorse expansion of Standardized RFP as piloted by Georgia Bureau of Investigations by adding additional states
- Option 2: Make no change

8



CJIS NFF On-Site Prep

***Statistical Evaluation of:**

IAFIS Errors

III Messages

CHR Traffic

Pointers

State NFF On-Site Prep

***Review NFF On-Site Materials
(Provided 2 weeks prior)**

***Materials include: Statistical Assessment,
State NFF Qualification Requirements and
Audit Criterion, and the NFF Operations
Plan**

NFF On-Site

***Review State Quals, Stats, and Ops
Plan (In Detail)**

***Identify State and FBI Action Items.**

***NFF Matrix**

***CJIS will provide written On-Site assessment
report**

NFF Participation

- Step 1. – Contact CJIS POC to discuss intention
- Step 2. – Conduct teleconference to discuss On-Site findings and action items
- Step 3. – Identify target participation date
- Step 4. – CJIS will review build dates to evaluate participation date

NFF Participation (Cont.)

- Step 5. – Target date changed to participation date
- Step 6. - State sends CJIS written request (must receive 8 weeks prior)
- Step 7. – CJIS sends letter confirming participation date
- Step 8. – CJIS schedules and tests system changes required for NFF participation

**WE'RE HERE TO
HELP!!**



Paula Barron – (304)-625-2749 or pbarron@leo.gov
Joyce Wilkerson – (304)-625-5505 or jwilkers@leo.gov



Review of Mandatory Data for Civil Submissions

National Crime Prevention and Privacy
Compact Council
November 2006

6/30/2007

1

Physical Data for IAFIS Civil Submissions

- This proposal is to change five elements for physical data from Mandatory to Optional for IAFIS Civil Submissions
 - Race
 - Height
 - Weight
 - Eye Color
 - Hair Color

2

Operational Impact

- These five data elements are not required in Department of State (DOS) or US Citizenship and Immigration Services (US CIS) Systems
- The collection of this information adds to the processing times for fingerprinting applicants for DOS and US CIS benefits

3

IAFIS Subject Search

- Obtain all possible candidates
 - Five physical data fields are not used
- Reduce list of possible candidates
 - Scoring of candidates
 - Physical data is used
- Candidates above the threshold are returned
 - Ordered by score
 - Candidates retrieved by FNU, SID, SOC or MNU
 - Plus any other name and date of birth candidates above the threshold

4

Request of the Council

- Option 1: Make no change
- Option 2: Make the five physical data elements optional for all IAFIS Contributing agencies
- Option 3: Make the five physical data elements optional for DOS and US CIS only

5



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

Criminal Justice Information
Services Division
Clarksburg, WV 26306
October 13, 2006

**TO: ALL CJIS SYSTEM OFFICERS AND STATE IDENTIFICATION BUREAU
REPRESENTATIVES:**

The purpose of this communication is to provide new guidance on the implementation of the National Child Protection Act (NCPA), as amended by the Volunteers for Children Act (VCA).

The NCPA of 1993 encouraged states to enact legislation pursuant to Public Law (Pub. L.) 92-544, authorizing state-designated qualified entities to contact a state-authorized agency to request a nationwide background check. In 1996, Congress amended the NCPA with the passage of the VCA [See 42 United States Code, Section 5119a et seq.]. The VCA authorizes a qualified entity, in the absence of state procedures, to contact an authorized agency of the state to request national fingerprint background checks. The procedures established by a state under the NCPA/VCA shall require that:

- (1) No qualified entity may request a background check unless the employee or volunteer first provides a set of fingerprints and completes and signs a statement that—
 - (A) contains the name, address, and date of birth appearing on a valid identification document of the provider;
 - (B) the provider has not been convicted of a crime and, if the provider has been convicted of a crime, contains a description of the crime and the particulars of the conviction;
 - (C) notifies the provider that the entity may request a background check;
 - (D) notifies the provider of the provider's rights; and
 - (E) notifies the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to a person to whom the qualified entity provides care.
- (2) Each provider who is the subject of a background check is entitled—
 - (A) to obtain a copy of any background check report; and
 - (B) to challenge the accuracy and completeness of any information contained in any such report and obtain a prompt determination as to the validity of such challenge before a final determination is made by the authorized agency;

242-HQ-C1497776-CC

1 - Mr. Bush, Module C-3

1 - Mr. Strait, Module C-3

1 - Mr. Cuthbertson, Module C-3

1 - Ms. Sundin, Module E-3

1 - Ms. Smith, Module B-3

1 - Mr. Nash, Module B-3

AWN:awn (96)

Identical letters sent to individuals on attached list.

ALL CJIS SYSTEM OFFICERS AND STATE IDENTIFICATION BUREAU
REPRESENTATIVES

- (3) An authorized agency, upon receipt of a background check report lacking disposition data, shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data;
- (4) The authorized agency shall make a determination whether the provider has been convicted of, or is under indictment for, a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities and shall convey that determination to the qualified entity; and
- (5) Any background check under 42 U.S.C. 5119a(a) and the results thereof shall be handled in accordance with the requirements of Pub. L. 92-544, except that this paragraph does not apply to any request by a qualified entity for a national fingerprint background [(42 U.S.C. § 5119(a)(b))].

In April 2003, the President signed into law the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (PROTECT) Act of 2003 (Public Law 108-21). Section 108 of the PROTECT Act directed the Attorney General to conduct a study on the feasibility of performing fingerprint-based criminal background checks on employees and volunteers who provide care to children, the elderly, or individuals with disabilities. Among the criteria to be examined by the study was the existence of "model" or best practice programs that could easily be expanded and duplicated in other states. One of the programs selected for the study was the Florida Department of Law Enforcement (FDLE), Volunteer & Employee Criminal History System (VECHS) program.

In 1999, the FDLE established the VECHS program to perform criminal history background checks on employees and volunteers who work with children, the elderly, or individuals with disabilities. Under Florida law, in general, any organization (public, private, profit, or non-profit) in Florida that provides care to children, the elderly, or the disabled is qualified to participate in the VECHS program. The VECHS program is not available to organizations that are required to obtain criminal history record checks on their employees and/or volunteers under statutory provisions other than NCPA/VCA. If, however, the authority to obtain state and national checks only pertains to specific types of employees and volunteers or positions within an entity, the FDLE will process requests for state and national checks on the organization's other employees or volunteers under the authority of the NCPA/VCA.

In order to become a qualified entity under FDLE's VECHS program, an organization must submit an application to FDLE explaining what functions the organization performs that serve children, the elderly, or disabled persons and sign a VECHS User Agreement that delineates the terms and conditions under which criminal history background checks shall be performed.

To request a criminal history background check, the qualified entity must obtain a completed and signed Waiver Agreement and Statement from each current or prospective employee and volunteer who is seeking to obtain a criminal history background check. The Waiver Agreement and Statement must include the following information: (a) the person's name, address, and date of birth that appear on a valid identification document [(as defined at 18 U.S.C. §1028); (b)] an indication of whether the person has or has not been convicted of a crime, and if

ALL CJIS SYSTEM OFFICERS AND STATE IDENTIFICATION BUREAU REPRESENTATIVES

convicted, a description of the crime and the particulars of the conviction; (c) a notification that the entity may request a criminal history background check on the person as authorized by Florida Statute Chapter 943.0542, and the NCPA; (d) a notification to the current or prospective employee or volunteer of his or her right to obtain a copy of the criminal history records, if any, contained in the report, and of the person's right to challenge the accuracy and completeness of any information contained in any such report; and (e) a notification that prior to the completion of the background check, the qualified entity may choose to deny him or her unsupervised access to a person to whom the qualified entity provides care. The qualified entity must retain the original of every Waiver Agreement and Statement and provide the FDLE with a copy.

To request a criminal history background check, a qualified entity must submit a completed fingerprint card and a copy of a completed Waiver Agreement and Statement for each employee and volunteer. The FDLE will perform a state background check and forward the fingerprints to the FBI for a national background check. Once the background check process is completed, the FDLE will provide the qualified entity with the following:

- An indication that the person has no criminal history, i.e., no serious arrests in state or national databases, if there are none;
- The criminal history record that shows arrests/and or convictions for Florida and other states, if any; and
- Notification of any warrants or domestic violence injunctions that the person may have.

Neither the NCPA/VCA nor Florida law governing the VECHS program defines the specific criteria to use during the suitability evaluation of an employee or volunteer. The screening criteria, i.e., barrier crimes, may already be covered under other statutory provisions. If so, the qualified entity must comply with all of the required screening criteria specified under state law. If not, the qualified entity is free to select its own screening criteria. This process enables the qualified entity to use its own judgment in determining who is suitable to work or volunteer in the organization and in what capacity.

In the event an individual's criminal history record contains an arrest without a disposition, the qualified entity is responsible for retrieving disposition data. The data may be obtained by contacting the appropriate Clerk of the Court or, in the case of an out-of-state arrest, the State Identification Bureau(s) of the other state(s).

The qualified entity must notify the current or prospective employee or volunteer of his or her right to obtain a copy of the criminal history records, if any, contained in the report. Each person who is subject to the background check is entitled to challenge the accuracy and completeness of any information contained in any such report and to obtain a determination as to the validity of such challenge before a final determination regarding the person is made by the qualified entity reviewing the criminal history record information (CHRI).

The qualified entity may use CHRI acquired under this process only to determine the suitability of current and/or prospective employees and/or volunteers that work with children,

ALL CJIS SYSTEM OFFICERS AND STATE IDENTIFICATION BUREAU REPRESENTATIVES

the elderly, or disabled persons. Florida law permits the qualified entity to share CHRI with another qualified entity if authorized by the individual on the Waiver Agreement and Statement. The qualified entity must keep a written record of the dissemination. This exchange of information helps to reduce the cost of performing multiple criminal history background checks on the same person.

The qualified entity must keep all criminal history records acquired in a secure file, safe, or other location protected by security devices, (such as locked file cabinet in an access-controlled area), and shall take such further steps as are necessary to ensure that the records are accessible only to those employees who have been trained in their proper use and handling and have a need to examine such records. The qualified entity is also required to keep all records necessary to facilitate a security audit by FDLE and to cooperate in record audits as FDLE or other authorities may deem necessary. Examples of records that may be subject to audit are criminal history records, notification that an individual has no criminal history, internal policies and procedures articulating the provisions for physical security, records of all disseminations of criminal history information, and a current executed User Agreement with FDLE.

As a result of the success of the VECHS program, other states have expressed an interest in adopting the program as a model for performing NCPA/VCA checks in their state. Upon the request of the National Crime Prevention and Privacy Compact Council, the FBI has reviewed Florida's VECHS program and has no legal objection to the program as administered. As referenced in the CJIS Information Letter dated December 1, 1999, the NCPA/VCA does not authorize the dissemination of FBI CHRI to a qualified entity. However, the federal Freedom of Information Act (FOIA) allows an individual to consent to the disclosure to third parties of information about the individual from federal agencies. This includes access to an individual's criminal history record maintained by the FBI. Therefore, an individual can request his or her FBI criminal history record and specify that the record be sent directly to the qualified entity.

In order to establish a program similar to Florida's VECHS program for performing NCPA/VCA background checks, a state shall consider the following guidelines:

- The state shall designate an authorized agency that a qualified entity may contact to request national criminal fingerprint background checks. A state may elect to designate more than one authorized agency. It is recommended that the state inform the FBI of the identity of the selected authorized agency(ies) and the purpose for which each agency may request a national criminal fingerprint background check.
- The state shall establish a process for designating qualified entities. The state shall sign a user agreement with each qualified entity. The user agreement must delineate the procedures for requesting a national criminal history record check and identify the responsibilities of the qualified entity for providing adequate controls to protect the security and integrity of the CHRI.
- The state should, if authorized by state law, conduct a separate criminal history background check on administrative personnel, particularly those involved in the background check process. This will help protect against situations where the operator of the qualified entity was involved in a crime which bears upon his or her fitness to have responsibility for the safety and well-being of children.

ALL CJIS SYSTEM OFFICERS AND STATE IDENTIFICATION BUREAU
REPRESENTATIVES

- The authorized agency shall obtain a completed and signed waiver from every employee or volunteer who is subject to a criminal history background check. The applicant waiver should state that (1) by signing the waiver form the individual acknowledges that the state repository will perform an FBI criminal history record check; and (2) the individual authorizes the state repository to disseminate the results of the FBI criminal history record check to the qualified entity.
- In the event an individual's criminal history record contains an arrest without a disposition, the state, or the authorized agency, shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data.
- The state shall have the option of providing the complete criminal history record or screened criminal history records to the qualified entity.
- The state shall provide a point of contact to assist a qualified entity in the interpretation of a charge or disposition.

For more information about the VECHS program, please log on to the FDLE's VECHS website at www.FDLE.state.fl.us/backgroundcheck or contact the VECHS Unit at (850) 410-VECHS.

For more information about the NCPA/VCA, please contact the FBI, Office of the General Counsel, Access Integrity Unit at (304) 625-3510.

Sincerely yours,

David Cuthbertson
Section Chief
Programs Development Section

Compact Council Minutes, Attachment #7

Attachment 2: Summary of Attorney General's Report to Congress on Criminal History Background Checks

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>A. ACCESS TO CRIMINAL HISTORY RECORDS</p> <p>RECOMMENDATIONS</p> <p>(1) Subject to the conditions specified in federal law and Attorney General regulations, authority to request FBI-maintained criminal history records should be broadened, under the priorities set forth in Access to Criminal History Records Recommendation #2 and as system capacity and resources allow to cover:</p> <p>(A) priority employers, and subsequently, if capacity allows, all employers, for use in decisions regarding an individual's employment suitability;</p> <p>(B) entities placing individuals in non-employment positions of trust, such as persons having access to vulnerable populations, client residences, significant organizational assets, or sensitive information;</p> <p>(C) any person or entity when the Attorney General determines such access promotes public safety or national security; and</p> <p>(D) consumer reporting agencies or other third parties that:</p> <p>(i) are acting on behalf of one of the authorized users of FBI-maintained criminal history record information;</p> <p>(ii) meet data security standards established by the Attorney General, including being certified through a public or private program approved by the Attorney General as being trained in applicable federal and state consumer reporting laws and in Attorney General</p>	<p>The Council conceptually agrees that all private and public employers should be authorized to request and receive the results of state and federal fingerprint based checks. Some states currently have the staff, system capacity, and desire to conduct such checks. Congress should enact legislation delegating to the United States Attorney General (AG) the authority to perform such checks in those states that "opt-in" to this broad authorization. Those states that "opt-in" would utilize existing infrastructure to process the fingerprint submissions—that is, the employers would submit the fingerprints to the state repository; the state repository would conduct a state fingerprint check, and if necessary obtain the complete record, forward the fingerprints to the FBI for a national fingerprint check. The FBI would return the results of the check to the state repository for transmittal to the employer. This broad (all employer) authorization would not apply in those states that "opt-out" of this process. National background checks only would not be permitted under the broad authorization.</p> <p>The federal legislation authorizing the "generic" entitlements should require the AG to obtain confirmation from non-participating (opting-out) states prior to the AG authorizing the requesting entity to submit fingerprints for a national check (the "generic" entitlement). States would "opt-in" or "opt-out" of participating in the noncriminal justice national fingerprint background check program(s) authorized by the AG. States could "opt-in" for one or more of the specifically defined categories. If a state "opts-out," then the authorized agencies in that state may choose to use the national model (see page 11) when it becomes available. Under this model where a state "opts-out," the Council recognizes that the FBI may need to develop rules that assist them in the management of the channeling of these additional prints.</p>	<p>The AG's recommendations would permit all employers in states that "opt-out" to submit fingerprints directly to the FBI.</p> <p>The AG's recommendations would authorize states that "opt-in" to conduct state and national checks for specific employers authorized under this new authority.</p>

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>standards relating to the secure handling of criminal history record information; and</p> <p>(iii) are prohibited, with limited exceptions, from aggregating the criminal history information obtained through these fingerprint-based checks for resale.</p>	<p>If a commercial database company enters into a contract to send and/or receive CHRI on behalf of an Authorized Recipient, then the company will be subject to the security requirements provided in the Council's Outsourcing Rule and Security and Management Control Outsourcing Standard, which summarize ensures that Contractors are held to the same level of security as Authorized Recipients.</p>	
<p>(2) To account for the need to develop FBI system capacity to handle the increased number of background check requests under this new authority, whether handled through a participating state or directly through the FBI, the Attorney General should prioritize access as follows:</p>	<p>For those states that "opt-out" of the above "all employer" authorization, there is a need to create "generic" entitlements for national record checks in lieu of existing state or federal statutes. Therefore, the federal legislation should also delegate to the AG the authority to establish a national fingerprint background check for industries where checks are not otherwise authorized by state or federal statutes. The Council recommends that the AG authorize "generic" entitlements for the following specifically defined categories:</p>	<p>The AG's recommendations would prioritize state and national checks permitted under this new authority.</p>
<p>(A) giving first priority to critical infrastructure industries, regulated industries and professions, and the placement of persons in positions of trust working with vulnerable populations;</p> <p>(B) allowing the expansion of access, at the Attorney's General discretion and only as system capacity allows, to all employers or entities that meet the conditions of access; and</p> <p>(C) allowing the FBI to manage access under the new authority to avoid a reduction in the level of service available for criminal justice, national security, and other governmental uses of IAFIS; and</p>	<p>Public Safety Security Personnel Protection of the Critical Infrastructure and Key Assets Positions of Trust Working with Vulnerable Populations Persons who have access to CHRI under the Outsourcing Rule Or others specifically authorized by the AG (could include insurance industry, etc.) (Note: The AG should evaluate the categories to determine if additional categories should be included or if system capacity issues precluding expansion should be addressed)</p>	
<p>(3) States should continue to be able to authorize background checks using the FBI-maintained criminal history records for specific categories of employment and licensing pursuant to Pub L. 92-544</p>	<p>Nothing should prohibit the states from continuing to do checks for specific categories of employment or licensing pursuant to the current Pub. L. 92-544 process.</p>	
<p>B. PROCESS FOR RECORD ACCESS RECOMMENDATIONS</p> <p>(1) Access to records in the FBI repository should, when possible, be through states that agree to participate in processing these checks and should include a check of state records.</p>	<p>The Council strongly supports the concept that states provide essential value to noncriminal justice background checks and must always be provided a central role in the identification and dissemination of CHRI. Traditionally, Congress has recognized the importance of performing a state criminal history record check prior to a national check. Article V of the Compact requires that each request for a criminal history record check utilizing the national indices made under any approved state statute shall be submitted</p>	<p>In order to participate, states that "opt-in" must meet standards specified by the Attorney General, within parameters set by statute, for the scope of access and the methods and time frames for providing access and responses to these checks.</p>
<p>(A) In order to participate, states must meet standards specified by the Attorney General, within parameters set by statute, for the scope of access and the methods and time frames for providing access and</p>		

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>responses to these checks.</p> <p>(2) Access to FBI-maintained criminal history records should be available to employers and entities under this authority through an FBI-administered process when access is unavailable through the state level because the state has not opted to provide such access.</p> <p>(A) In establishing an FBI-administered process for record access to LAFTS records by employers and other authorized entities, the Attorney General should:</p> <p>(i) seek to create an efficient means by which the check will include a search, confirmed with fingerprints, of as many state and federal criminal history records as possible, including the records in the state where the check is being sought;</p> <p>(ii) establish a means by which state repositories can be compensated when appropriate for efforts that make in support of FBI-processed requests; and</p> <p>(iii) establish a means by which improvements required to</p>	<p>through the state's criminal history record repository.</p> <p>The Council strongly supports the use of state databases for criminal history record checks as the most complete and accurate source of criminal data. Any proposed models should endeavor to include access to all state repository databases to take advantage of greater public safety and homeland security benefits.</p> <p>In recognition of the importance of the state repositories, the Council further encourages states to become more proactive in facilitating such checks. The Council believes the restrictions in current federal legislation (e.g. Pub. L. 92-544) have at times discouraged states from fully participating in the process to support background checks for certain industries. The Council believes that the models proposed in this document will encourage more expansive participation by states.</p> <p>Recognizing the increased demands for noncriminal justice background checks, some states are not able to perform all phases of the criminal history background check process. Accordingly, the models proposed by the Council permit states to "opt-in" or "opt-out" of any stage of the criminal history background check process.</p>	

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>(3) State criminal history record repositories and the FBI should be authorized to disseminate FBI-maintained criminal history records directly to authorized employers or entities and to consumer reporting agencies acting on their behalf, subject to the screening and training requirements and other conditions for access and use of information established by law and regulation</p> <p>(A) Access through state and FBI-administered process should be facilitated through:</p> <ul style="list-style-type: none"> (i) consumer reporting agencies meeting requirements specified by the Attorney General; or (ii) direct access by employers that meet criteria established by the Attorney General on state repositories aimed at limiting direct access by employers to a manageable number, including requirements for meeting a minimum volume threshold of checks and for electronic submission of fingerprints. 	<p>The Council supports dissemination of the CHR to public and private employers for employment suitability determinations when (1) the CHR is obtained based upon positive fingerprint identification, and (2) the applicant signs a form that acknowledges that the State and/or the FBI may disseminate a copy of the applicant's CHR to the employer. Such dissemination should be authorized by amending Pub. L. 92-544.</p> <p>Currently, criminal history information is disseminated to the employer only as a result of specific authorizing federal legislation (industry-by-industry). For example, Pub. L. 105-277 permits receipt of the CHR by a private nursing facility or home health care agency for a "first hand" suitability determination by the employing entity. Federally chartered or insured banks also receive the results of criminal history record checks. However, private child care facilities and a host of other private employers do not.</p>	
<p>(4) The submission of fingerprints should continue to be required for positively identifying records in the FBI criminal history record repository to a record subject when a check is made for non-criminal justice purposes.</p> <p>(A) The fingerprint submissions for criminal history record checks under this new authority should:</p> <ul style="list-style-type: none"> (i) be collected exclusively through electronic live-scan capture and transmission of an individual's fingerprints on systems that have been certified by the FBI and submitted in the FBI standard format; and 	<p>The Council supports dissemination of the CHR to public and private employers for employment suitability determinations when (1) the CHR is obtained based upon positive fingerprint identification, and (2) the applicant signs a form that acknowledges that the State and/or the FBI may disseminate a copy of the applicant's CHR to the employer. Such dissemination should be authorized by amending Pub. L. 92-544.</p> <p>Electronic fingerprint capture via live scan machines, and automated processing must be developed and supported. Congress needs to provide funding to support automation. State and federal agencies should be encouraged to improve the efficiency of the infrastructure by using existing</p>	<p>Article V (a) Positive Identification</p> <p>Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.</p> <p>The AG's recommendations do not</p>

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>(ii) use, when reasonably available, electronic fingerprint technology that is fast and unobtrusive.</p> <p>(5) A participating state or the FBI should be required to respond to an enrolled employer, entity, or consumer reporting agency within three business days of the submission of the fingerprints supporting the request for the criminal history record check.</p>	<p>Electronic fingerprint capture and submission would reduce the processing time for background check requests. The Council urges the AG and Congress to establish a date by which each state repository must submit criminal and civil fingerprints to the FBI electronically and to continue financial and technical support to obtain that goal.</p>	<p>address "other approved forms of positive identification."</p>
<p>C. PRIVACY PROTECTION RECOMMENDATIONS</p> <p>(1) Authorized employers and consumer reporting agencies seeking access should be required to enroll under the program and enter into agreements concerning conditions and requirements for access to FBI-maintained criminal history record information, including:</p> <p>(A) certifying that the information obtained from the FBI and state record repositories will be used solely for purposes of determining an individual's suitability for employment or placement in a position of trust, or another authorized purpose; and</p> <p>(B) agreeing to:</p> <p>(i) follow procedures established by the Attorney General to ensure data security and the privacy of the records obtained pursuant to this authority; and</p> <p>(ii) maintain relevant records and be subject to audits by the FBI or another entity from which it receives criminal history records, e.g., an enrolled consumer reporting agency or a participating state repository, for compliance with record handling requirements.</p> <p>(2) The limitation on the use of FBI-maintained criminal history information obtained under this authority exclusively for employment or placement suitability should be expressed in the law creating the authority.</p> <p>(3) The Attorney General should establish standards for adequate</p>	<p>The Council supports dissemination of CHRI to the employer if proper controls are in place. If CHRI is permitted to be provided to an employer, the employer would essentially become an "authorized recipient" as defined in the Council's Security and Management Control Outsourcing Standard (Outsourcing Standard) and would be subject to the same level of security, audit, privacy requirements, and sanctions that exist for current authorized recipients of CHRI.</p>	<p>The Compact Council has approved</p>
<p>(2) The limitation on the use of FBI-maintained criminal history information obtained under this authority exclusively for employment or placement suitability should be expressed in the law creating the authority.</p>		
<p>(3) The Attorney General should establish standards for adequate</p>	<p>For fingerprint checks to truly be effective, the collection of the fingerprints</p>	<p>The Compact Council has approved</p>

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>identification and verification:</p> <p>(A) of employers and consumer reporting agencies seeking to enroll as qualified to request background checks pursuant to the new authority; and</p> <p>(B) of individuals subject to the background check.</p> <p>(4) Privacy protections should be made applicable to enrolled employers and consumer reporting agencies obtaining under the new authority FBI-maintained criminal history information for a record repository, including:</p> <p>(A) on a document that consists solely of a consent and notice document and that satisfies the requirements of the Privacy Act:</p> <p>(i) obtaining written consent by the individual to the fingerprint-based criminal history record check of the applicable government record repositories; and</p> <p>(ii) providing notice to the individual of the following:</p> <p>(a) the scope of the databases that will be searched based on the request;</p> <p>(b) his or her right relating to confidential access to and the opportunity to review and challenge a criminal history record returned by a fingerprint check before it is provided to the enrolled employer or entity or, if not so reviewed, before the employer takes any adverse action based on the information in the record; and</p> <p>(c) the fact that information in the record returned from the check may only be re-disseminated by the user in accordance with conditions specified by the Attorney General.</p>	<p>must be accompanied by methods to authenticate and verify a person's identity. The Council is drafting "best practices" notices/standards for personal identification.</p> <p>The Council supports the policy set forth in title 28, C.F.R., Section 50.12 that current and prospective employees must acknowledge the performance of a criminal history background check. A statement should be completed and signed by the employee informing the employee that a criminal history background check will be performed and that his/her signature on the form constitutes an acknowledgement and consent that such a check may be conducted and, if applicable, the fingerprints will be retained by the state and/or federal repositories.</p>	<p>guidelines for verifying an applicant's identity.</p>

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>(B) the right of the individual to review and challenge the accuracy of a criminal history record produced by the repository search:</p> <p>(i) before the record is provided to the employer, or</p> <p>(ii) before adverse action is taken, if the individual has not availed him – or herself of the right to see the record before it is provided to the employer.</p>		
<p>(5) Participating state repositories and the FBI should establish a process by which prospective applicants with enrolled employers or entities can obtain fingerprint check results about themselves once during any twelve-month period, allowing for review and correction in advance of application, but in a way that prevents passing such information on to employers or other users as official record check results.</p>	<p>The agency making the fitness determination should, upon request of the individual who is the subject of the CHRI, provide a copy of the CHRI (based on positive identification) to the individual.</p>	
<p>(6) Participating state repositories and the FBI should establish a streamlined, automated appeal process for applicants seeking to challenge a record's accuracy, without requiring a separate set of fingerprints and an additional fingerprint fee, and ensure that appeal information is provided to applicants when reviewing their records during the check process.</p>	<p>The employee should be provided use information regarding the mechanism to correct an erroneous record.</p>	
<p>(7) Limits should be established governing the use, retention, and deletion of fingerprint submissions under this new authority:</p> <p>(A) collected by enrolled users, or third-party consumer reporting agencies acting on their behalf; and</p> <p>(B) received by the FBI or a participating state repository, and channels acting on their behalf.</p>	<p>The utility of retaining applicant fingerprint submissions for "tap back," latent comparisons, and disaster victim identification purposes as allowed by state and federal law, outweighs any benefit of destroying the fingerprints after processing. Retention of the fingerprints provides a more efficient background check by providing a mechanism to avoid costs associated with subsequent checks which would include the costs of capturing new fingerprints. The Council supports the current plan to retain the applicant fingerprint submissions in LAFIS with the state's concurrence.</p>	
<p>D. SCREENING STANDARDS RECOMMENDATIONS</p> <p>(1) "No record" responses may be disseminated by a repository to an enrolled consumer reporting agency or a direct access employer or authorized entity.</p>		
<p>(2) Searches that result in a "hit" on a record should be screened by the enrolled consumer reporting agency or, in the case of direct access</p>	<p>The State repository should make a reasonable effort to obtain missing disposition information. However, missing information should not be a</p>	<p>The Compact Council's Record Screening Rule establishes record</p>

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>employers, by the participating state repository or the FBI before the record is reported to an enrolled employer or entity.</p> <p>(A) Such screening should include:</p> <p>(i) a reasonable effort by the participating state repository or the FBI to find missing dispositions of arrest records before disseminating the record to an enrolled consumer reporting agency or a direct access employer or entity; and</p> <p>(ii) screening in accordance with FCRA and applicable state law requirements in the state of employment that limit the dissemination to or use by employers of criminal history record information.</p> <p>(B) Congress should consider providing that the screening requirements under the FCRA should not apply to the dissemination of records under this authority:</p> <p>(i) of a record from the state of employment when the record can be disseminated by the state repository under applicable state law;</p> <p>(ii) of a record when the law of the state of record origin would allow public access to the record and the law of the state of employment allows use of the record by employers for employment suitability determinations; and</p> <p>(iii) of records relating to violent or sexual offenses to employers or entities that provide care, as the term is defined in section 5 of the National Child Protection Act, for children, the elderly, or individuals with disabilities.</p> <p>(3) Records disseminated to a user under this new authority by a consumer reporting agency, the FBI, or a participating state repository should identify whether an offense is a felony, a misdemeanor, or some lesser violation under the law of the charging jurisdiction.</p> <p>(4) Except as noted below, the screened record may be disseminated to an enrolled employer or entity by consumer reporting agencies, a participating state repository, or the FBI.</p>	<p>detriment to dissemination of the record to the employer unless such dissemination is contrary to state law.</p>	<p>screening standards for criminal history record information received by means of a III System for noncriminal justice purposes.</p>

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>(A) when as part of the enrollment process, the employer presents a certificate that it has received training, through a public or private program (including programs administered by consumer reporting agencies enrolling employers) recognized by the Attorney General, in the reading and interpretation of criminal history record information;</p> <p>(B) however, only enrolled consumer reporting agencies should disseminate the screened record to the user when the law of the state of employment requires that before the record is reported to employer or third party, the record must be confirmed as complete and up-to-date as reflected in the current status of the record at the agency from which it originates.</p> <p>(5) All dissemination of records to users under this authority should include an appropriate disclaimer that the response may not necessarily contain all possible criminal record information about the individual, either because it has not been entered in the repository database or because the responses have been screened in accordance with the above limitations on dissemination</p>		
<p>(6) In reporting information to an enrolled employer or entity, an enrolled consumer reporting agency should clearly separate the fingerprint-based criminal history record information from other information reported</p>	<p>In regards to searching commercially available databases, the Council requests the following comments be considered:</p> <p>The understanding that commercial databases do not have complete national coverage because, for a variety of reasons, many states do not make criminal history record information available to commercial database compilers. The lack of complete and current data may result in inaccurate information being provided to the requester</p> <p>In regards to searching commercially available databases, the Council requests the following comments be considered:</p> <p>The understanding that the search of commercial databases is not supported by fingerprints for purposes of assuring the information is accurately matched and that no identification is missed.</p>	
<p>(7) The enrolling entity (e.g., a consumer reporting agency or an outsourced agent acting on behalf of a participating state repository or the FBI) should be required to establish a toll-free number and a web-site that enrolled users, entities, or consumer reporting agencies can use for assistance in interpreting criminal history records.</p>		
<p>E. SUIABILITY CRITERIA RECOMMENDATIONS</p> <p>(1) Enrolled users seeking access to criminal history information under this new authority should certify that the information obtained will not be used in violation of any applicable federal or state equal employment opportunity</p>		

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>law or regulation.</p> <p>(2) Congress should consider whether guidance should be provided to employers on appropriate time limits that should be observed when applying criteria specifying disqualifying offenses and on providing an individual the opportunity to seek a waiver from the disqualification.</p>	<p>If the purpose of the criminal history record check is governed by a state regulatory agency, nothing should preclude the State repository from disseminating a copy of the record to the regulatory agency and also to the employer. Nor shall nothing preclude the employer from establishing more stringent suitability screening criteria than the regulatory agency.</p>	
<p>F. SUPPORTING INFRASTRUCTURE RECOMMENDATIONS</p> <p>(1) Electronic, live-scan fingerprint submissions should be collected:</p> <p>(A) at the place of business of an enrolled employer or entity or an enrolled consumer reporting agency acting on their behalf, or through an authorized channeling agent, or</p> <p>(B) at service centers established by a participating state, either through a governmental agency or through outsourcing, that are:</p> <p>(i) at a location other than a law enforcement agency; and</p> <p>(ii) at least as convenient to access as places where state identification documents, such as driver's licenses, are obtained.</p> <p>(2) An appropriate number of channeling agency should be established to receive the fingerprints from the large number of service centers and enrolled employers, entities, and consumer reporting agencies that will be collecting fingerprints.</p> <p>(3) Additional capacity at both the FBI and state repositories must be developed to enable the processing of these newly authorized checks.</p>	<p>Electronic fingerprint capture via live scan machines, and automated processing must be developed and supported. Congress needs to provide funding to support automation. State and federal agencies should be encouraged to improve the efficiency of the infrastructure by using existing technology such as the Internet, ten-fat civil submissions and participation with commercial entities for matters of similar interest.</p>	
	<p>The Council's model, which allows for states to "opt-in" or "opt-out," recognizes system capacity issues to some extent by limiting access via a national model to only certain "generic" categories. System and through-put capacity and process limitations must be considered in the implementation of the recommendations and sufficient "ramp-up" timeframes will need to be developed. Financial incentives to the states and appropriations to the FBI would facilitate participation in the proposed model.</p>	
<p>G. FEE RECOMMENDATIONS</p> <p>(1) A new fee-funded business model should be developed to streamline the processing and finding of federal and state non-criminal justice criminal history background checks with the goal of:</p>	<p>State fees vary depending on the services (name search, technical search, retention, and "rap back" practices) that are provided by the state. Therefore, the Council supports the position that states must be allowed to establish their</p>	

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>(A) reducing the costs of the checks;</p> <p>(B) establishing greater consistency in the state fees charged for such checks;</p> <p>(C) providing states appropriate compensation for the support they give to checks processed by the FBI in circumstances where the state does not charge a fee because it is not handling the check; and</p> <p>(D) ensuring that all state repositories and the FBI have the funding necessary to support the technology required to improve data quality and efficient processing of check requests.</p> <p>(2) The question of who should bear the cost of the checks under this new authority should generally be decided between the employer and the individual, although Congress may wish to consider requiring that the cost of fingerprint checks for lower paying jobs be borne by the employer.</p> <p>H. ENFORCEMENT RECOMMENDATIONS</p> <p>(1) Penalties should be established for the unauthorized access to or misuse of records of government record repositories under this new authority, including:</p> <p>(A) Criminal penalties for persons who knowingly:</p> <p>(i) obtain criminal history record information through this authority under false pretence; or</p> <p>(ii) use criminal history record information obtained through this authority for a purpose not authorized under this authority; and</p> <p>(B) Civil penalties, including monetary penalties and discontinued access for violations of required security and privacy procedures resulting in the disclosure of information obtained under this authority to unauthorized persons.</p> <p>(2) The Attorney General should be authorized to establish an</p>	<p>own fee structure for performing noncriminal justice background checks; however, the Council encourages states and the FBI to explore ways to reduce the costs of performing criminal history background checks. Fees allow for the recovery of the state's costs for performing the record check, including all the direct and indirect costs. However, the Council recognizes that the fee structures are often set legislatively at the state level.</p> <p>If federal legislation is enacted delegating the AG the authority to authorize a national fingerprint background check in industries where checks are not specifically authorized by state or federal statutes, a fee structure will need to be developed for such national fingerprint background checks to include fee sharing among the states.</p>	
	<p>The Council recommends that Congress provide states and the FBI with financial and technical support to establish audit and training programs.</p> <p>Current penalties are not adequate or consistent. Substantial criminal and civil penalties for the misuse of CHRI should be attached to any legislation arising from this initiative. Violators should be vigorously prosecuted.</p>	

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>administrative process, to be administered by the FBI and participating state repositories, for sanctions, including termination of access, against enrolled employers, entities, and consumer reporting agencies for violations of requirements regarding access to and security of the information, including failure to observe the required rights of individuals.</p>		
<p>I. RECORD IMPROVEMENT RECOMMENDATIONS</p>		
<p>(1) There should be a renewed federal effort to improve the accuracy, completeness, and integration of the national criminal history records system.</p>		
<p>(2) Federal funds should be targeted at reaching national standards established by the Attorney General relating to disposition reporting and record completeness, including deletions to prosecute and expungement and sealing orders, so that there is uniformity in improvements by repositories nationwide.</p>		
<p>(3) Accelerate the standardization of rap sheets to make them more readily understood by non-criminal justice purpose users.</p>		
<p>(4) Congress should consider requiring state repositories to establish procedures meeting national standards to remedy the adverse affects on individuals who are wrongly associated with criminal records because they are victims of identity theft.</p>		
<p>(5) Establish a national accreditation process for criminal history record repositories, much the same way that crime laboratories are accredited, to better ensure data quality by measuring repository performance against national standards.</p>		
<p>(6) Seek to integrate the repository systems in a way that will allow a single fingerprint check to return all information on an individual maintained by all states rather than the current process for obtaining such complete information of requiring separate fingerprint checks in 50 state-plate record systems.</p>	<p>Congress proactively set a standard for improving criminal history record checks for noncriminal justice purposes by passage of the Compact. Twenty-five states have adopted the Compact. The Council encourages full participation in the Compact by all 50 states, territories or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico so that the National Fingerprint File (NFF) model of providing the most complete records to the requester can be realized. The Council further encourages Congress to provide incentives to states to ratify the Compact and become NFF participants.</p>	
<p>(7) Develop a realistic assessment of the cost to achieve these record improvement goals.</p>		

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>(8) Develop a comprehensive ongoing data collection and research program by BJS that includes:</p> <p>(A) study of the extent of automation and accessibility of state and FBI criminal records;</p> <p>(B) data collection documenting the accuracy, completeness, and timeliness of state and FBI criminal history records;</p> <p>(C) assessment of the completeness and timeliness of local agency criminal record submissions to state and federal databases;</p> <p>(D) trends in state and national records quality indices; and</p> <p>(E) monitoring statistical trends in public and private criminal background checks in terms of the types of records examined, the number and results of checks done, costs, timeliness of responses, and other relevant factors.</p>		
<p>J. ADDITIONAL RECOMMENDATIONS</p> <p>(1) Congress should consider whether employers that have suitability determinations made by a government agency under Public Law 92-544 should also have the option of seeking the records under this authority.</p> <p>(2) Congress should consider steps that would improve and create additional consumer protection relating to name checks of criminal history records used for employment purposes, such as:</p> <p>(A) Amending the FCRA to:</p> <p>(i) require a consumer reporting agency, before reporting name-based criminal history information along with fingerprint-based information to:</p> <p>(a) confirm the accuracy and completeness of criminal history records obtained solely through a name-based search; or</p> <p>(b) disclose the name-based information to the individual along with the</p>		

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
<p>fingerpint information and allow the individual to challenge the accuracy of the information before it is reported to the user;</p> <p>(ii) as an alternative to subparagraph (i), require a consumer reporting agency, whenever it is reporting criminal history information, to provide the consumer the opportunity to see and challenge the accuracy of the information before it is reported to the user;</p> <p>(iii) require a notice to an individual by an employer prior to adverse action of criminal history information obtained from public or non-FCRA sources;</p> <p>(iv) establish a choice of law provision providing that the consumer reporting laws of the state of employment should apply to reports made by consumer reporting agencies; and</p> <p>(v) If adopted, provide for the exceptions discussed in Screening Standards Recommendation #2 (B), and</p> <p>(B) establishing national standards for courts to confidentially maintain personal identifiers in criminal case dockets and to allow access to those identifiers for authorized purposes, such as record confirmations in connection with criminal history background checks sought with the written consent of the defendant</p>	<p>The Council believes there is data to support the effectiveness of utilizing state and federal criminal history databases via a fingerprint submission for a background check. This belief is based on the fact that fingerprint submissions to IAFIS greatly reduces the potential for false positives and false negatives for identification (see the Interstate Identification Index Name Check Efficacy: Report of the National Task Force to the U.S. Attorney General, July 1999) and proved the gateway for a check of all 50 states.</p> <p>Although the Council is not aware of any study to support or evaluate the effectiveness and efficiency of utilizing commercial databases as a supplement to IAFIS criminal history information checks, the Council presumes there could be value in checking commercially available databases.</p>	<p>The AG's report states "There certainly is not enough information to conclude that a check of commercial databases should be continued with the results of an IAFIS check. Employers, as well as consumer reporting agencies that may be handling the checks on their behalf, frequently decide, however, depending on the cost, to check both public and private sources in order to have the most complete check.</p>

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
	<p>However, employer checks of commercially available databases should be voluntary and not required. Further, the employer should not be forced to supplement the check only because there is no other mechanism to provide the employer access to nationwide criminal history data.</p>	<p>possible. Employers also can decide on their own whether they need to check commercial databases for non-criminal information, such as financial history." (p. 54)</p>
	<p>There is a finite list of industries (e.g., liquor distributors, horse racing/puntamutual wagering) in which some individuals are licensed/certified in multiple states. Individuals currently must receive a state check as well as a national check in every state in which they are applying for a license/certification. The Council has drafted a model that would allow for multiple state checks, but only one national check.</p>	<p>The AG's recommendations do not address multi-state criminal history record checks.</p>
	<p>To allow for state checks but only one national check, the proposed model would establish a channeling agency to submit fingerprints directly to the FBI for a national check. At the same time, the channeling agency would request a state check of all states in which the individual is applying to be licensed/certified as authorized under state law. The channeling agency would collate the results from the "national" and "state" fingerprint checks. The channeling agency would forward the results of the checks to the state regulatory agency of each state in which the individual applied. Each state regulatory agency would apply its own suitability criteria to make the fitness determination, provide notification of its determination to the individual applicant, and provide notification of its determination and the results of the criminal record checks to the individual's employer.</p> <p>Under the "generic" entitlement model suggested by the Compact Council, the current restriction on record sharing for "related" purposes for which the record was requested needs to be removed. The records could be shared under the umbrella of the "generic" entitlements provided that the employee consents to the record being shared with another authorized recipient, the information shared can only be that which the authorized recipient would otherwise be entitled to receive, and the employer sharing the record maintains a log of the dissemination for at least one year. The employer (authorized recipient) receiving the record understands that the information may not be current and is not necessarily verified by a biometric.</p>	<p>The AG's recommendations do not address record sharing between authorized recipients.</p> <p>The AG's recommendations do authorize the FBI and state repositories to disseminate CIRM directly to an employer or a consumer reporting agency meeting requirements specified by the Attorney General. Presumably, the</p>

Compact Council Minutes, Attachment #7

ATTORNEY GENERAL RECOMMENDATIONS	COMPACT COUNCIL RECOMMENDATIONS	COMMENTS
		<p>Consumer Reporting Agency will service more than one authorized recipient; therefore, the potential would exist for a Consumer Reporting Agency to share an individual's CHRI without performing a fingerprint check. The individual would have to consent to the dissemination and have the right to review the record prior to dissemination.</p>

**Federal Bureau of Investigation
Criminal Justice Information Services Division
Advisory Policy Board**



**Compact Council Meeting
November 2006**

Advisory Policy Board

The APB met June 22-23, 2006 in Cincinnati, Ohio.

**Searching Multiple Databases with
one IAFIS Submission**

Endorsed an additional field in the EFTS to permit searching multiple fingerprint federal databases and that it be designed to expand and hit other databases in the future.

Use of State Records for Criminal Justice Purposes

Accepted the proposed IAFIS modification, when a fingerprint identifies to a III state-maintained record and the state can respond for the purpose code of the submission, the IAFIS will reach out to the state for its record. The III state's response will be appended to any FBI-maintained criminal history response in the same manner that NFF state records are appended today.

IAFIS Processing Priorities

- Approved priority processing in IAFIS as follows:
 - High 15 minutes
 - Routine 24 hours
 - Non-Urgent end of next business day
 - Extended 7 business days

NFF Qualification Requirements

Endorsed the Compact Council (CC) motion which states that CJIS Division staff should research National Fingerprint File state's response times. The CC motion further requested that CJIS Division Staff solicit input from the states as to the potential impact to changing the NFF qualification requirement and provide guidance on a new response time requirement.

Flagging Missing Person Records in IAFIS

- That missing person record information should be automatically passed to IAFIS for inclusion in the subject's criminal history record when the NCIC record contains an FBI Number.
- Disseminate missing person record information on record responses to criminal justice agencies only.
- Generate missing person record information via Nlets Administrative Messages to the ORI of the missing person record and its CSA and the ORI of the criminal justice fingerprint contributor and its CSA.

Disposition Pilot

Supported the pilot to obtain dispositions be changed from OPM to the California Department of Justice. Also, the CJIS Division should provide a final report on the pilot before further implementation; this report should be vetted through the regional Working Groups. Also, California DOJ should provide Standard Operating Procedures for how they acquire dispositions to use as a baseline document.

Next Generation Identification

Endorsed the categorization of the NGI user requirements completed by the CJIS Division and the IIETF and reviewed and approved by the IS Subcommittee. Endorsement of this categorization effort will allow the CJIS Division to continue with development of NGI functional and system requirements.

Approved Uses of III for State and Federal Site Security

Tabled the issue and requested that APB Chairman Sleeter convene an Ad Hoc Task Force, involving Compact Council and APB top management, for the purpose of further definition and new purpose code developments.

Meeting with Director Mueller

The Advisory Policy Board Officers met with Director Mueller on October 3, 2006.

Questions/Comments

For additional information,
Roy G. Weise
(304) 625-2730
rweise@leo.gov

Next Generation Identification Program Office

For Official Use Only

Slide 1

Unclassified

Briefing Summary

■ Background

■ User Requirements

■ Approval Process

■ Functional Requirements

■ Next Steps

■ On the Horizon

For Official Use Only

Slide 2

Unclassified

NGI Initiatives

QC Automation

Interstate Photo System (Mugshots)

Disposition Reporting Improvements

Advanced Fingerprint Identification Technology

Enhanced IAFIS Repository

National Palm Print System (NPPS)

Interoperability

Scalability

Flexibility

Info. Sharing

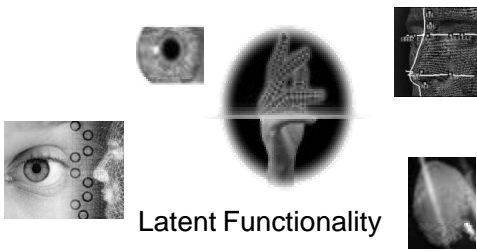
For Official Use Only

Slide 3

Unclassified

New Areas of Interest

Multimodal Framework



Latent Functionality

For Official Use Only

Slide 4

Unclassified

NGI Initiative Leads

- QCA
 - Rachel Tucker (304) 625-4119
 - Diane Casteel (304) 625-4167
- IPS
 - Justin Cook (304) 625-4456
 - John Minnoci (304) 625-5214
- DRI
 - Robert Holman (304) 625-4863
 - Michelle West (304) 625-2613

- AFIT
 - David Jones (304) 625-4850
 - Diane Casteel (304) 625-4167
- EIR
 - Gary Williams (304) 625-2849
 - Michelle West (304) 625-2613
- NPPS
 - Cindy Johnston (304) 625-3061
 - Michelle Vecchio (304) 625-2614

For Official Use Only


Slide 5

Unclassified

User Requirements Canvass

From 9/19/05 through 3/15/06

State & Territory Agencies Canvassed	111
Federal Agencies Canvassed	54
FBI	27
Non-FBI Federal	27
Authorized Non-Criminal Justice Agencies	18
Special Interests	10
Total Completed	193

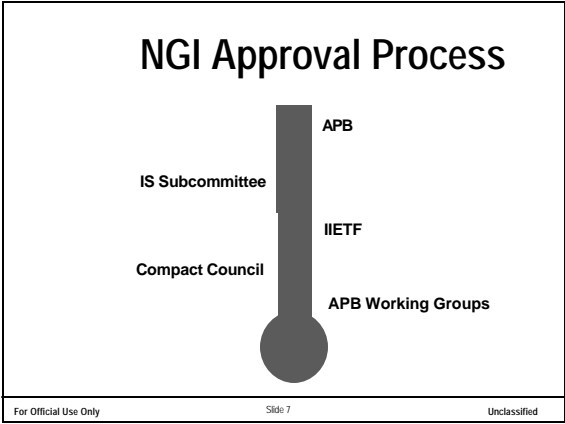


Over 1,000 Individuals Represented
Over 1,000 Requirements Identified

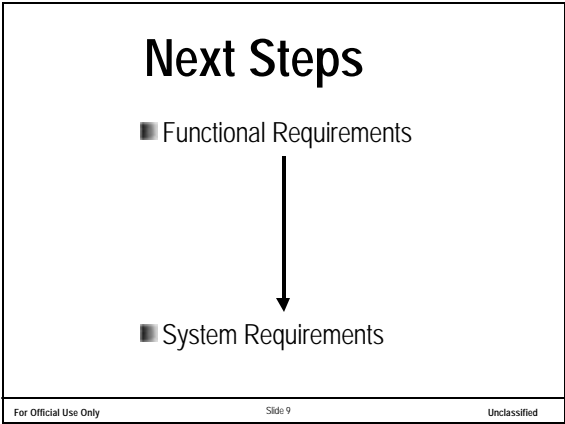
For Official Use Only

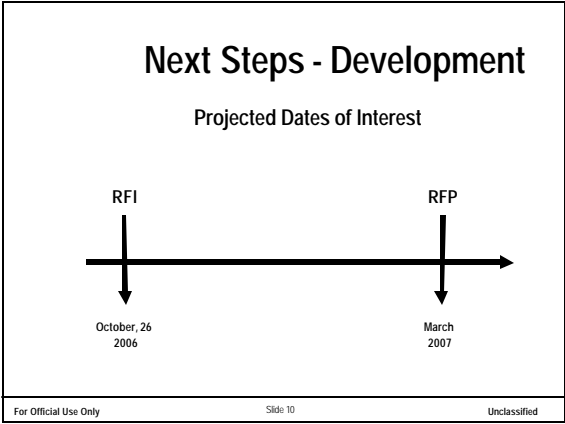
Slide 6

Unclassified



- ### NGI Functional Requirements
- IntelliDyne
 - CJIS
 - Integrated Project Teams
 - Final Product – Functional Requirements Document
- For Official Use Only Slide 8 Unclassified





- ### Next Steps – Quick Wins
- CD Capability for Machine Readable Data
 - New Disposition III Message
 - Quality Check Automation Phase III
 - Receipt and Storage (ANSI/NIST)
 - Accept 1000 pixels per inch
 - Disposition Electronic Fingerprint Transmission Specification
- For Official Use Only Slide 11 Unclassified

On the Horizon

Liaison Team Mission

To conduct extensive internal/external liaison in order to market the functionality and benefits of the Next Generation Identification (NGI) Program and to identify evolving biometric capabilities to be considered and further analyzed for future NGI development.

For Official Use Only Slide 12 Unclassified

On the Horizon

Liaison Team Duties

- Demo Initiative
- Marketing Materials
- Website Management
- Milestone Reporting
- LEO SIG Management
- Newsletters
- Article Creation
- NGI Video Production

- Internal/External
 - Presentations
- Special Interest Groups
 - International
 - Federal
 - State (by Region)
- Vendor
- CJIS Advisory Process
- Compact Council
- IIETF
- Community Outreach
- Risk Liaison


- Regional Research:
 - East, Central, West
- International Research
- Web Chat Services
- NSTC Participation
- Library Creation
- Horizon Report
- Congressional Research

For Official Use Only

Slide 13

Unclassified

NGI Program Office



Questions?

For Official Use Only

Slide 14

Unclassified

Compact Council Minutes, Attachment #10
[Federal Register: July 6, 2006 (Volume 71, Number 129)]
[Notices]
[Page 38408-38411]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr06jy06-85]

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2006-0029]
RIN 1660-ZA05

Privacy Act System of Records; Amendment to Existing Routine Uses

AGENCY: Federal Emergency Management Agency (**FEMA**), Department of Homeland Security (DHS).

ACTION: Notice of amendment to routine uses.

SUMMARY: In compliance with the requirements of the Privacy Act of 1974, as amended, **FEMA** gives notice that it proposes to revise its Disaster Recovery Assistance Files, **FEMA**/REG-2, to address important issues that arose in the aftermath of Hurricane Katrina.

EFFECTIVE DATE: The amended system of records will be effective August 7, 2006, unless comments are received that result in a contrary determination. The public, the Office of Management and Budget (OMB), and Congress are invited to comment on the amended system of records. The amended system of records will be applicable to major disasters or emergencies declared on or after July 6, 2006, unless comments are received that result in a contrary determination.

ADDRESSES: You may submit comments, identified by **Docket ID FEMA-2006-0029** by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments;

E-mail: FEMA-RULES@dhs.gov. Include the **Docket ID** in the subject line of the message;

Fax: 202-646-4536 (not a toll-free number); or

Mail/Hand Delivery/Courier: Rules **Docket** Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 840, 500 C Street, SW., Washington, DC 20472; Maureen Cooney, Acting Chief Privacy Officer, Department of Homeland Security, 601 S. 12th Street, Arlington, VA 22202.

Instructions: All submissions received must include the agency name and **Docket ID** (if available) for this notice. All comments received will be posted without change to <http://www.regulations.gov>, including

any personal information provided.

Docket: For access to the **docket** to read background documents or comments received, go to the Federal eRulemaking Portal at <http://www.regulations.gov>.

Submitted comments may also be inspected at **FEMA**,

Office of General Counsel, 500 C Street, SW., Room 840, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: In compliance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, **FEMA** gives notice that it intends to make several changes to its system of records entitled, **FEMA/REG-2**, Disaster Recovery Assistance Files, which was last published in the Federal Register on November 15, 2004 (69 FR 65615). As a result of experiences during Hurricane Katrina and questions raised about **FEMA's** authority to share vital information needed to assist in disaster recovery and relief, **FEMA** is revising its Disaster Recovery Assistance Files system of records in several respects.

First, **FEMA** has modified the ``Purpose(s)'' section to add as a purpose of the system information sharing in the event of another Presidentially-declared major disaster or emergency that adversely impacts a significant portion of the United States. The information **FEMA** collects during its disaster assistance efforts can be of critical importance to State and local governments, private relief organizations, and law enforcement agencies, and although **FEMA** believes it has the authority to share information with these partners, it is revising its SORN to make transparent the fact that

[[Page 38409]]

such sharing is a purpose of the system of records.

Second, **FEMA** intends to add new routine uses that allow for information sharing with Federal agencies, State and local governments or other authorized entities for the purposes of reunifying families, locating missing children, voting, and with law enforcement entities in the event of circumstances involving an evacuation, sheltering, or mass relocation, for purposes of identifying and addressing public safety and security issues. These routine uses are being added to resolve any ambiguities about **FEMA's** authority to share information under these circumstances and to ensure that necessary information can be disseminated in an efficient and effective manner.

FEMA is also making some non-substantive editorial changes to its system notice. **FEMA** is eliminating routine uses that are related to internal, administrative processes including routine use ``(k) Private Relief Legislation,'' and ``(p) Freedom of Information Act (FOIA) Discussions with Other Agencies Regarding DHS Documents and Vice Versa.'' **FEMA** is deleting routine uses that are unnecessary including routine use ``(h) Requesting Information'' and routine use and ``(i) Requested Information.''

The proposed revisions to this system of records will not change the type or amount of information collected from individuals who apply for disaster assistance. Instead, the revisions will change with whom that information can be shared and for what purposes. **FEMA** believes that these revisions will allow it to more effectively provide a full range of disaster assistance and meet its responsibilities to share critical information with other Federal, State, and local government agencies as well as private entities involved in various aspects of disaster recovery and relief.

In accordance with the requirements of 5 U.S.C. 552a(r), a report on the revisions to this system notice has been provided to the Office of Management and Budget and to Congress.
DHS/**FEMA**-REG 2

SYSTEM NAME:

Disaster Recovery Assistance Files.

SYSTEM LOCATION:

National Processing Service Centers (NPSC) located at **FEMA** MD-NPSC, 6505 Belcrest Road, Hyattsville, MD 20782; **FEMA** VA-NPSC, 19844 Blue Ridge Mountain Road, Bluemont, VA 20135; **FEMA** TX-NPSC, 3900 Karina Lane, Denton, TX 76208; and **FEMA** PR-NPSC, Carr 8860, KM 1.1 Bldg T-1429, Trujillo Alto, PR 00976.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who apply for disaster recovery assistance through three different mediums including: (a) electronically via the Internet, (b) by calling **FEMA**'s toll-free number, or (c) through the submission of a paper copy of **FEMA** Form 90-69 following Presidentially-declared major disasters or emergencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Records of registration for assistance (Form 90-69, Disaster Assistance Registration/Application) include individual applicants' names, addresses, telephone numbers, social security numbers, insurance coverage information, household size and composition, degree of damage incurred, income information, programs to which **FEMA** refers applicants for assistance, flood zones, location and height of high water level, and preliminary determinations of eligibility for disaster assistance.

(b) Inspection reports (Form 90-56, Inspection Report) contain individuals' identifying information and results of surveys of damaged real and personal property and goods, which may include individuals' homes and personal items.

(c) Temporary housing assistance eligibility determinations (Forms 90-11 through 90-13, 90-16, 90-22, 90-24 through 90-28, 90-31, 90-33, 90-41, 90-48, 90-57, 90-68 through 90-70, 90-71, 90-75 through 90-78, 90-82, 90-86, 90-87, 90-94 through 90-97, 90-99, and 90-101). These refer to approval and disapproval of temporary housing assistance and include: general correspondence, complaints, appeals and resolutions, requests for disbursement of payments, inquiries from tenants and landlords, general administrative and fiscal information, payment schedules and forms, termination notices, information shared with the temporary housing program staff from other agencies to prevent the duplication of benefits, leases, contracts, specifications for repair of disaster damaged residences, reasons for eviction or denial of aid, sales information after tenant purchase of housing units, and the status of disposition of applications for housing.

(d) Eligibility decisions for disaster aid from other Federal and State agencies (for example, the disaster loan program administered by the Small Business Administration, and disaster aid decisions of the State-administered Individual and Family Grants (IFG) and its successor program, Other Needs Assistance (ONA)) as they relate to determinations of individuals' eligibility for disaster assistance programs.

(e) State files, independently kept by the State, which contains records of persons who request disaster aid, specifically for IFG and its successor program, ONA, and administrative files and reports

required by **FEMA**. As to individuals, the State keeps the same type of information as described above under registration, inspection, and temporary housing assistance records. As to administrative files and reporting requirements, the State uses forms 76-27, 76-28, 76-30, 76-32, 76-34, 76-35, and 76-38. This collection of information is essential to the effective monitoring and management of the IFG and the ONA Program by **FEMA**'s Regional Office staff who have the oversight responsibility of ensuring that the State perform and adhere to **FEMA** regulations and policy guidance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), 42 U.S.C. 5121-5206 and Reorganization Plan No. 3 of 1978.

PURPOSE(S):

To register applicants needing disaster assistance, to inspect damaged homes, to verify information provided by each applicant, to make eligibility determinations regarding an applicant's request for assistance, and to identify and implement measures to reduce future disaster damage, and for other purposes identified in the ``Routine Uses'' section below, resulting from a Presidentially-declared major disaster or emergency that adversely impacts a significant portion of the United States.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS or **FEMA** as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(a) **FEMA** may disclose applicant information to certain agencies as necessary and as described below to prevent a duplication of efforts or a duplication of benefits in determining eligibility for disaster assistance. **FEMA** shall only release as much information as is necessary to enable the recipient agency to determine eligibility for that agency's particular assistance program(s). The receiving agency is not

[[Page 38410]]

permitted to alter or to further disclose our disclosed records to other disaster organizations. **FEMA** may make such disclosures under the following circumstances:

(1) To another Federal agency or State government agency charged with administering disaster relief programs to make available any additional Federal and State disaster assistance to individuals and households.

(2) When an applicant seeks assistance from a local government agency or a voluntary organization (as defined at 44 CFR 206.2(a)(27), as amended or superseded) charged under legislation or charter with administering disaster relief programs, and **FEMA** receives a written request from that local government or voluntary agency that includes the applicant's name, **FEMA** registration/application number, and damaged dwelling address. The written request must explain the type of tangible assistance being offered and the type of verification required before the assistance can be provided.

(3) To voluntary organizations (as defined at 44 CFR 206.2(a)(27),

as amended or superseded) that have an established disaster assistance program to address the disaster-related unmet needs of disaster victims, are actively involved in the recovery efforts of the disaster, and either have a national membership, in good standing, with the National Voluntary Organizations Active in Disaster (NVOAD), or are participating in the disaster's Long-Term Recovery Committee. When a voluntary agency satisfies all of the criteria listed in this subparagraph, **FEMA** may release lists of individuals' names, contact information, and their **FEMA** inspected loss amount to the volunteer agency for the sole purpose of providing additional disaster assistance. **FEMA** shall release this information only while the period for assistance for the current disaster is open.

(b) When an individual's eligibility, in whole or in part, for a DHS/**FEMA** disaster assistance program depends upon benefits already received or available from another source for the same purpose, **FEMA** may disclose information to relevant agencies, organizations, and institutions as necessary to determine what benefits are available from another source and to prevent the duplication of disaster assistance benefits (as described in section 312 of the Stafford Act).

(c) In response to a written request, **FEMA** may disclose information from this system of records to Federal, State, or local government agencies charged with the implementation of hazard mitigation measures and the enforcement of hazard-specific provisions of building codes, standards, and ordinances. **FEMA** may only disclose information for the following purposes:

(1) For hazard mitigation planning purposes to assist States and local communities in identifying high-risk areas and preparing mitigation plans that target those areas for hazard mitigation projects implemented under Federal, State or local hazard mitigation programs.

(2) For enforcement purposes, to enable State and local communities to ensure that owners repair or rebuild structures in conformance with applicable hazard-specific building codes, standards, and ordinances.

(d) Pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. 3325(d) and 7701(c)(1), **FEMA** is required to collect and release to the United States Department of the Treasury the social security number of the person doing business with **FEMA**, including an applicant for a grant. Therefore, **FEMA** will release an applicant's social security number in connection with a request for payment to the U.S. Treasury in order to provide a disaster assistance payment to an applicant under the Individual Assistance program.

(e) **FEMA** may provide a list of applicants' names, amounts of assistance provided, and related information to a State in connection with billing that State for the applicable non-Federal cost share under the Individuals and Households Program.

(f) When an applicant is occupying a **FEMA** Temporary Housing unit, **FEMA** may release only the location of the **FEMA** Temporary Housing unit to local emergency managers for the sole purpose of preparing emergency evacuation plans. **FEMA** shall not release any information on an individual, such as their name, type or amount of disaster assistance received.

(g) Where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law--criminal, civil or regulatory--the relevant records may be referred to an appropriate Federal, State, territorial, tribal, local, international, or foreign agency law enforcement authority or other appropriate agency charged with investigating or prosecuting such a violation or enforcing or implementing such law. In the event of

circumstances requiring an evacuation, sheltering, or mass relocation, **FEMA** may also share applicant information with Federal, State or local law enforcement in order to identify illegal or fraudulent conduct and address public safety or security issues.

(h) To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

(i) To the National Archives and Records Administration or other Federal Government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. sections 2904 and 2906.

(j) To an agency, organization, or individual for the purposes of performing authorized audit or oversight operations.

(k) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

(l) To the Department of the Treasury, Justice, the United States Attorney's Office, or a consumer reporting agency for further collection action on any delinquent debt when circumstances warrant.

(m) To the Department of Justice (DOJ) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (1) DHS, or (2) any employee of DHS in his/her official capacity, or (3) any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee, or (4) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation.

(n) Reunification of Families: To a Federal or State law enforcement authority, or agency, or other entity authorized to investigate and/or coordinate locating missing children and/or reuniting families.

(o) Voting: To State and local government election authorities to oversee the voting process within their respective State/county/parish, for the limited purpose of ensuring voting rights of individuals who have applied to **FEMA** for Disaster Assistance, limited to their own respective State's/county's/parish's citizens who are displaced by a Presidentially-declared major disaster or emergency out of their State/county/parish voting jurisdiction.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure under 5 U.S.C. 552a(b)(12): **FEMA** may make disclosures from this system to consumer reporting agencies' as defined in the Fair Credit Reporting

[[Page 38411]]

Act, 15 U.S.C. Section 1681a(f), or the Debt Collection Act of 1982, 31 U.S.C. Section 3711(e).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Interactive database, computer discs, and paper records in file folders.

RETRIEVABILITY:

By an individual's name, address, social security number, and case file number.

SAFEGUARDS:

Only authorized individuals and **FEMA** employees have access to this information. Hardware and software computer security measures are used to control access to the data. Access to the data is based upon an individual's position in **FEMA** and/or their designated duties. Individuals are assigned specific ``rights'' or specific access (e.g., read only, modify, delete, etc.). The access granted is based upon an individual's position responsibilities for ``official use'' only. **FEMA** employees are allowed access to the data as a function of their specific job assignments within their respective organizations. Each **FEMA** employee's access to the data is restricted to that needed to carry out their duties.

No individual applying for disaster assistance will have access to the entire database via the Internet. Applicants will have limited access to only their own information that they submitted via the Internet, and to the status of their own information regarding the processing of their own application (e.g. the status of required documentation, inspection status, or SBA status). Applicants are provided a Logon **id**, password, and Personal Identification Number (PIN) that connect only to the applicant's data. The password and PIN ensures that the login **id** belongs to the applicant. Computer security software ensures that the login **id** is mapped only to the applicant's data. Applicants will have access to only their own application information after **FEMA** assigns them a properly authenticated user **id**, password, and PIN. Applicants will be registered and authenticated in accordance with National Institute of Standards and Technology Level 2 Assurance guidelines.

RETENTION AND DISPOSAL:

Records covered by paragraphs (a) through (d) are covered by Records Schedule N1-311-86-1 4C10a and are destroyed after 6 years and 3 months. Records covered by paragraph (e) are covered by Records Schedules N1-311-86-1 4C7 and/or N1-311-86-1 4C10b and are destroyed 3 years after closeout.

SYSTEM MANAGER(S) AND ADDRESS:

Division Director, Recovery Division, **FEMA**, 500 C Street SW., Washington, DC 20472 and applicable Regional Directors, as listed in Appendix A(1).

NOTIFICATION PROCEDURE:

Requests for Privacy Act protected information generally are governed by DHS regulations found at 6 CFR part 5 and **FEMA**'s regulations at 44 CFR part 6. They must be made in writing, and clearly marked as a ``Privacy Act Request'' on the envelope and letter. The name of the requester, the nature of the record sought, and the verification of identity must be clearly indicated, as required by DHS regulation 6 CFR 5.21 and **FEMA** regulation at 44 CFR 6.30. Requests may also be sent to: Privacy Act Officer, DHS/**FEMA** Office of General Counsel (GL), Room 840, 500 C Street, SW., Washington, DC 20472.

RECORD ACCESS PROCEDURES:

Same as the Notification Procedure above.

CONTESTING RECORD PROCEDURE:

Same as the Notification Procedure above. The letter should state clearly and concisely what information you are contesting, the reasons for contesting it, and the proposed amendment to the information that you seek pursuant to DHS Privacy Act regulations at 6 CFR part 5 and **FEMA** regulations at 44 CFR part 6.

RECORD SOURCE CATEGORIES:

Applicants for disaster recovery assistance, credit rating bureaus, financial institutions, insurance companies, and state, local and voluntary agencies providing disaster relief, commercial databases (for verification purposes).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: June 30, 2006.

Maureen Cooney,
Acting Chief Privacy Officer.

Appendix A (1)--Addresses for **FEMA** Regional Offices

Region I--Regional Director, **FEMA**, 99 High Street, 6th Floor,
Boston, MA 02110;

Region II--Regional Director, **FEMA**, 26 Federal Plaza, New York, NY
10278-0002;

Region III--Regional Director, **FEMA**, One Independence Mall, 615
Chestnut Street, Philadelphia, PA 19106-4404;

Region IV--Regional Director, **FEMA**, 3003 Chamblee-Tucker Road,
Atlanta, GA 30341;

Region V--Regional Director, **FEMA**, 536 S. Clark Street, Chicago, IL
60605;

Region VI--Regional Director, **FEMA**, Federal Center, 800 North Loop
288 Denton, TX 76209;

Region VII--Regional Director, **FEMA**, 2323 Grand Boulevard, Kansas
City, MO 64108-2670;

Region VIII--Regional Director, **FEMA**, Denver Federal Center,
Building 710, Box 25267, Denver, CO 80225-0267;

Region IX--Regional Director, **FEMA**, 1112 Broadway St. Oakland, CA
94607;

Region X--Regional Director, **FEMA**, Federal Regional Center, 130
228th Street, SW., Bothell, WA 98021-9796.

[FR Doc. E6-10640 Filed 7-5-06; 8:45 am]

BILLING CODE 9110-10-P



**Compact Council Meeting
November 8, 2006**

**Status of FBI's Selection of
Pre-Approved National Channelers**



Background



- June 21, 2006, Notification in FedBizOpps
- June 28, 2006, RFP Provided to Interested Contractors
- July 28, 2006, Proposals Due
- October 24, 2006, Source Selection Evaluation Board Recommendation to Source Selection Authority



Award List



- Awarded to 19 Offeror's (Listed in Alphabetical Order)
 1. Accurate Biometrics, Inc. dba Art's Investigations
 2. Acxiom Information Security Services, Inc.
 3. American Bankers Association
 4. ChoicePoint Government Services Inc.
 5. Cogent Systems
 6. ComnetIX Inc.
 7. Cross Match Technologies
 8. Eid Passport, Inc.
 9. Fahlgreen Solutions LLC
 10. First Advantage Corporation (FADV) & Pride Rock Holdings Incorporated (PRCS)



Award List



Continued from previous slide



- 11. Identix Identification Services
- 12. Inquiries, Inc.
- 13. Mobile Electronic Fingerprinting
- 14. National Background Check, Incorporated
- 15. National Conference of State Liquor Administrators
- 16. National Credit Reporting
- 17. The National Racing Compact
- 18. Transportation Security Clearinghouse
- 19. USIS Commercial Services, Inc.



What's Next



- Kickoff Teleconference - 11/15/2006
- CJIS Wide Area Connection Timeframe



IDENT/IAFIS Interoperability

Debbie Chapman
Biometric Interoperability Program Office
November 2006

6/30/20071

Overview of Presentation

- **Current Interoperability Pilots**
 - iDSM Status Report
 - DOS Pilots
- **Interoperability Alternatives for IOC/FOC**
- **Data Protection Strategies**
- **Next Steps**

2

iDSM Summary

- **Based on the Shared Data Model**
 - Wanted Persons from IAFIS
- **First sharing of DHS and DOS biometric data with IAFIS Contributing Agencies**
 - Expedited Removals
 - Category 1 Visa Critical Refusals
- **Identifications will result in responses from the Law Enforcement Support Center**
- **Piloting Agencies**

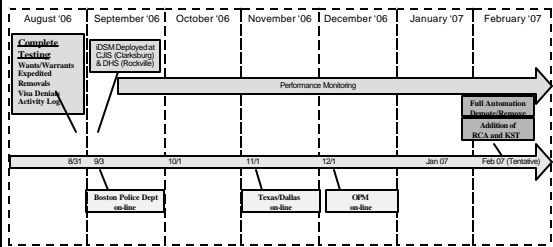
3

iDSM Project Timeline

- Official Project kick off February 2006
- FBI Board Approvals--February 10, 2006
- Finalize CONOPS-- April 2006
- Final Design Review scheduled for June 2006
- iDSM deployed on September 3, 2006
- Performance analysis and lessons learned
- Anticipate expansion of data sub-sets to include
 - Remaining DHS Recidivists with Alerts
 - FBI Known and Suspected Terrorists

4

CJIS iDSM Implementation Schedule



5

iDSM Successes

- iDSM hits of the DHS immigration files (Expedited Removals)
 - October 18, 2006
 - Subject arrested by Boston Police Department for breaking and entering of a motor vehicle
 - October 22, 2006
 - Subject arrested by Boston Police Department for kidnapping, indecent assault and battery, and resisting arrest
- Immigration and Customs Enforcement (ICE)/Law Enforcement Support Center (LESC) alerted of both subjects of interest
- Boston ICE notified by ICE/LESC and able to lodge detainees
- Subjects were prevented from being released on bond

6

Department of State Ten-Print Pilot

- Based on Shared Services
- Target priority sites for 10-print collection for all visa applicants
- Submit all visa applicants to IAFIS for a Criminal History Check
 - No pre-filtering of applicants
- Comparison of results between US - VISIT IDENT and IAFIS
- Implemented on 10/30/06
 - London, San Salvador, Riyadh and Dhahran

7

Interoperability Alternatives

- Base Case-Enhanced Status Quo
 - Includes iDSM
 - IDENT modifications to store and use 10-prints
- Shared Services Model
 - Independently store and maintain biometric data without the use of a synchronized copy of data provided to the other agency
 - Information sharing via search requests
 - Existing guidelines for responses and hit notifications
- Shared Data Model
 - Synchronized copy of biometrics shared (Fingerprint images or minutia)
 - When biometric matches are made, matching agency requests supporting Criminal and Immigration History information.

8

IOC/FOC Interoperability Alternative Decision

- iDSM is a pilot of the Shared Data Model
- New DOS pilots will be based on the Shared Services Model
- CJIS is awaiting interoperability alternative decision soon

9

Data Sharing Concerns

- Protection of privacy
- Use of data
- Notification of Wanted Persons identification
- Proper maintenance of shared records
- Joint reporting of program success

10

Data Protection Strategy

- Joint work product between FBI and US - VISIT
 - Approved strategies become the foundation for data protection requirements if the Shared Data Model is selected
- Shared Services Model
 - Data Protection Strategy is not needed
 - Data shared as a result of an encounter
 - Data protection requirements exist in IAFIS
 - Faster implementation

11

Strategy 1: Effective Communications

- Keep federal, state and local partners agencies informed of Interoperability progress
- Brief APB and Compact Council
 - Timely updates through existing processes
 - Request advice on critical issues
 - The FBI is the custodian of IAFIS contributing agencies' data
 - Additional Focus Groups as needed

12

Strategy 2 – Inventory of Data Shared

- **Start with a Clean Slate**
- **Perform a full comparison of data between IAFIS and IDENT**
- **Comparison will allow an evaluation of data**
 - Update needs to ensure data is current, accurate and complete.

13

Strategy 3 – Mission-Related Data

- **Retain data in IAFIS and IDENT in line with mission**
 - IAFIS-National Criminal History Repository
 - IDENT-National Immigration History Repository
- **Remove prior CHRI in IDENT based on comparison of data (Strategy 2)**
- **Rely on IAFIS to maintain CHRI**
 - IAFIS supplies synchronized copy of fingerprint images to US-VISIT

14

Strategy 4 – Data Management

- **Develop Data Management Policies**
- **IAFIS will trigger the correct file maintenance with the Shared Data**
 - **Removal**
 - Removal of an entire record or record link based upon a court order of expungement
 - Does not include qualification for immigration retention purposes
 - **Demotion**
 - Withdrawal of an individual from a want list
 - Biometrics may remain in Shared Data
 - Issued by owning agency
 - Within 15 minutes from issuance

15

Strategy 5 – Data to be Shared

- **Data Sharing Model**
 - Limited data shared to only the data required for effective operations
 - Fingerprint Images or Minutiae
 - FBI Number
 - Minimal related biographic data (not full CHRI)
 - Decision pending on fingerprint images or minutiae
 - Sharing of images offers several benefits over minutiae

16

Strategy 6 – Sharing of FBI Number

- **FBI number is currently provided via the extract process**
- **Criminal Justice Purpose**
 - FNU will allow for immediate access to CHRI via the QR message
 - POE is criminal justice purpose
- **Noncriminal Justice Purpose**
 - Biometric verification will be required
 - Visa applicants, applications for benefits

17

Strategy 7 – Audit Compliance Program

- **Plan and implement a rigorous audit program**
 - Utilize CJIS Division Audit Unit
 - Ensure compliance to CJIS policies and procedures for shared data
 - Ensure secondary dissemination of IAFIS CHRI does not occur
- **Interoperability Business and Functional Requirements ensure auditing**

18

Strategy 8 - Prevent Third-Party Sharing of Data

- **Develop a written Memorandum Of Understanding to document agreements**
 - FBI, DHS, and DOS
- **Specifically prohibit sharing IAFIS and IDENT data outside of these systems**

19

Strategy 9 – Hit Notification

- **Automatic administrative message to Wanting Agency**
 - Upon an identification
 - Will be modeled after current CJIS processes
- **Will not replace the notification requirements of the arresting agency as specified in the NCIC Manual, Section 3.5**

20

Next Steps

- **Compile iDSM lessons learned**
- **Evaluate iDSM**
- **Determine Interoperability Alternative to be used for long term solution**
 - Implement approved data protection solutions, if data sharing model is selected
- **Finalize functional requirements**
- **Develop an automated IDENT response**

21

Questions

- Please review and provide comments on the data protection strategy

22
